



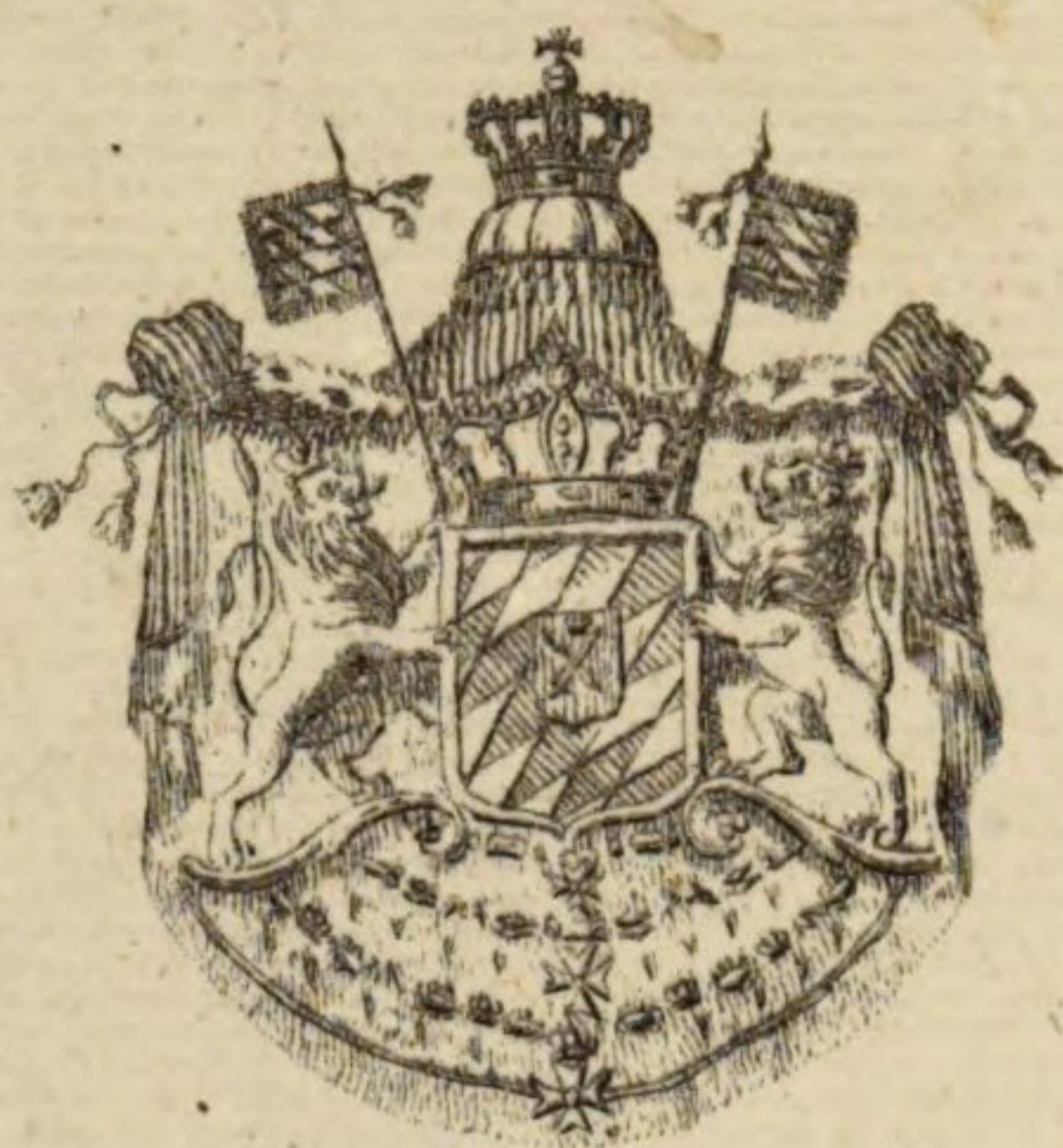
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THE
H I S T O R Y
OF THE
PRINCIPAL TRANSACTIONS
OF THE
IRISH PARLIAMENT,
FROM THE YEAR 1634 TO 1666;
CONTAINING
PROCEEDINGS of the LORDS and COMMONS,
during the Administration of the Earl of STRAFFORD,
and of the First Duke of ORMOND :
WITH
A NARRATIVE of HIS GRACE's LIFE, collected from
the Papers of Sir ROBERT SOUTHWELL, Knt., Secretary of
State in Ireland, and President of the Royal Society.
TO WHICH IS PREFIXED,
A PRELIMINARY DISCOURSE
ON THE
ANCIENT PARLIAMENTS of that KINGDOM.

By the Right Hon. LORD MOUNTMORRES.

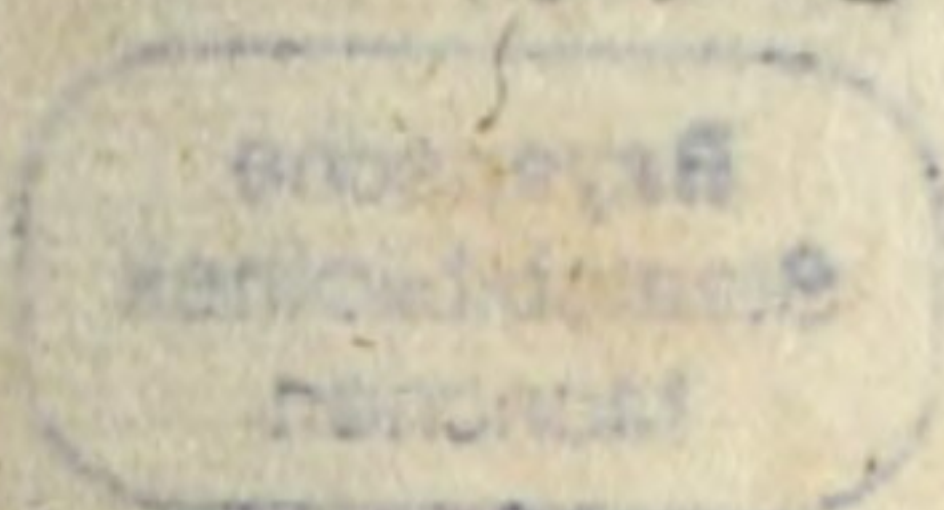
Tibi res antiquæ laudis et artis
Aggrediar, sacros ausus recludere fontes.

VIRG.

IN TWO VOLUMES.
VOL. I.

L O N D O N :
PRINTED FOR T. CADELL IN THE STRAND.
MDCCXCII.

35. D.



H I S T O R Y

OF THE
BRITISH EMPIRE

FROM 1700 TO 1800

BY
JAMES COOK

A HISTORY OF THE
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OF THE
FIRST VOLUME.

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The

C O N T E N T S.

The PROCEEDINGS of the IRISH PARLIAMENT, from 1634 to 1666, during the Life and Administration of JAMES BUTLER the first Duke of ORMOND. To which is prefixed, a Narrative of his Grace's Life; collected from Materials communicated by his Grace to his Secretary, Sir ROBERT SOUTHWELL, Knt., Minister Plenipotentiary to the Court of Portugal in 1667, Secretary of State in Ireland, and President of the Royal Society. Compiled from the Original Manuscript in the Castle of Kilkenny.

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Page 51. line 11. for elders read idlers.

368. — ult. note, for or act read to act.

P R E F A C E.

THE security of literary property; that encouragement, which the wisdom of the English legislature has extended to learning, by insuring to authors the sole and exclusive disposal of that in which assuredly mankind have the most decided right, namely, in the production of their own understandings; is the principal cause of the exertions of the learned, and of the many laborious compilations in England.

Literary property has not been hitherto secured by any law of the Irish legislature; hence the penury of authors may be accounted for, and still more the infrequency of laborious works. A law of this description has long been expected, and
a
ardently

ardently desired by every real friend to that country, as a great instrument of the dissemination of knowledge, and consequently of national improvement; since few will be found to write for fame, and many for pecuniary compensation.

Numerous, therefore, as the histories of parliamentary transactions have been of the English, there are none of the early proceedings of the Irish, parliament. The following work was undertaken, though without any aid or assistance, to give a short view of the early parliamentary history of that country.

The late sir Richard Cox has written a short narrative of the proceedings in the session of one thousand seven hundred and thirty-seven*: Upon that scheme, and according to his idea, the following work has

* This narrative of sir Richard Cox was never published; it was lent to the author many years ago, by the present speaker of the house of commons of Ireland.

been

been modelled. The first design of the author was, to write a short account of every session in both houses, from the commencement of the journals; but it was confined to the compass of the following work, upon a conviction, that the solitary unassisted labour of an individual was not equal to so laborious a compilation.

But the scheme of a more extensive history had its advantages; for, though the work which the author presumes to offer to a discerning Public, professes only to comprehend the transactions of parliament in the preceding centuries; yet the extent of the original scheme enabled him to collect materials, to extend those precedents and those examples in early times, to modern periods; to compare ancient with recent cases; to link the past with the present; to trace the customs and usages which now prevail, to their origin, and to ground them upon principles; since the origin of customs usually assigns the true and genuine reason of their adoption.

But, aware that these parliamentary proceedings must be dry and uninteresting, if they were not accompanied with some production that might relieve the reader from a laborious investigation of matters of fact, the author has combined them with a history of the first duke of Ormond, by his secretary sir Robert Southwell, afterwards president of the royal society; a narrative which is rendered highly pleasing by the charms and beautiful simplicity of the style, and which, according to its illustrious author, was rendered still more valuable, by the communication of the materials and principal anecdotes from the duke of Ormond himself.

The work was never designed to be published either by the last duke, or by his brother lord Arran; and the reason of it is sufficiently obvious, from the following Dedication. After a sufficient lapse of time, when cotemporary relatives are no more, it is submitted to public inspection; and even this permission was a tribute of private friendship from a near relation, the heir of that illustrious nobleman, to the author.

P R E F A C E.

Sir Robert Southwell had been minister to Portugal in one thousand six hundred and sixty-seven, of which critical period in that country he has left us the best account: he was afterwards plenipotentiary to the court of the emperor Leopold; secretary of state in Ireland during life, which office was continued in his family for three generations; and he was, till his death in one thousand seven hundred and two, president of the royal society.

These were glorious additions, and eminent designations; but the testimony of the duke of Ormond, in his letter to his grandson, where, in his charming, habitual, epistolary style, he bequeaths his last advice about his future conduct, places his character in a still higher and far more advantageous situation,

“ My acquaintance with sir Robert South-
“ well,” says the duke of Ormond, “ is of
“ about twenty-three years standing, and
a 3 “ began

“ began upon his return from his travels in
“ foreign parts; by which he has so profit-
“ ed, that I was extremely pleased to find,
“ in the person of the son and grandson of
“ ancient and useful friends to me and my
“ family, one that I could with confidence
“ recommend to the late king my master’s
“ service, into which he was received; and
“ for sixteen years he discharged all the
“ parts given him with remarkable fidelity
“ and service; and with such indefatigable
“ industry and application, that having al-
“ most destroyed his health by that labour,
“ and a variety of climates he was sent into,
“ he was compelled to retire from business
“ with the leave and the favour of the king.
“ In the time he served the king at home
“ and abroad, there happened to be some
“ changes in my condition; sometimes I
“ was employed, and sometimes others, in
“ the government of Ireland; and some-
“ times, in some things, my credit at court
“ seemed to be more, and sometimes less,
“ as there happened designs to be laid, and
“ changes

“ changes projected, such as I was more or
 “ less thought fit to be consulted in or to
 “ execute. But, in all these changes, I
 “ never found any in sir Robert Southwell’s
 “ friendship to me, or in the concern he
 “ formerly professed to have for my honour
 “ and for the advantage of my family. But,
 “ on the contrary, his affection to me, and
 “ care of my interest, appeared to be more
 “ warm, when others thought me under
 “ a cloud and quitted me, than when the
 “ sun shone more conspicuously upon me.
 “ The pains he took to bring you the hap-
 “ piness, and my family the blessing of such
 “ a body * as you have married, highly
 “ augments the obligation we are under,
 “ to make as proportionable returns as we
 “ can, on all occasions, to him and his; I
 “ shall perform my part whilst I live. The
 “ conclusion of all is, that you may with

* The lady Mary Somerset, daughter of the duke
 of Beaufort. This general term for person was more
 usual in former times, and is still current in the fa-
 miliar dialect of Scotland.

“ all imaginable security open yourself freely
 “ to him, as to a faithful friend; you may
 “ depend upon the fidelity and prudence of
 “ his advice; and you ought, upon all op-
 “ portunities, and as well as you are or
 “ shall be able, to advance his good and his
 “ family’s. And so God bless you.

“ Your most affectionate grandfather,
 “ ORMOND.”

To sir Robert Southwell’s Narrative, the following Dedication was prefixed; hence it appears, that it was written in the year of the Revolution, and that it was intended merely for the late duke of Ormond’s private inspection :

“ *King’s Weston, September 8th, 1688.*

“ MAY IT PLEASE YOUR GRACE,

“ This goes to accompany a little map
 “ of a great country, I mean some short
 “ memo-

“ memorials of your grandfather; which
“ yet take in the travels, employments, and
“ some accidents of his whole life. I know
“ no man can fully write of what he acted
“ and suffered, without engaging in a chro-
“ nicle; for he was fifty-five years in
“ councils and in business, which compre-
“ hends all the last age, and it sometimes
“ requires a new age to speak truth of the
“ old.

“ However, it is certain, that what I
“ write and now send, must be the root of
“ all those branches, wherever they are dis-
“ played.

“ Had I sooner thought of this work,
“ it had been more ample and exact; and
“ though it may probably receive additions
“ from the papers which I have or may
“ procure, yet it is certain, that much even
“ of this had been lost for ever, if I had not
“ in time consulted him, who was alone
“ able to inform me.

“ Your

“ Your grace should be perfect in these
“ few sheets ; because every man is a
“ debtor to his family, and ought to know
“ it: there are some touches of your illust-
“ rious father, and I am still at work, if you
“ think fit, to make them many more, and
“ I hope my son will be as busy here-
“ after to cast up the good works of your
“ grace ; for the truth is, you are put
“ under great obligations to serve the
“ world, by those patterns that are gone
“ before you ; and you must not think it
“ a severity, to make this become a harder
“ task and duty upon your son, my lord
“ of Ossory ; for, virtue is an extensive
“ business, and in this agrees with the finest
“ and purest gold, since both of them will
“ stretch as far as one would have them.

“ There are some truths in the writing I
“ send you, which may offend others, and
“ therefore it is wholly intended for your
“ own sight ; at least it will shew that I ho-
“ nour your grace, and that I shall not be
“ sorry to see you excel those you come
“ from,

“ from, who in their time excelled most
“ others.

“ I am, in all duty,

“ My Lord,

“ Your Grace’s most faithful,

“ And most obedient servant,

“ ROBERT SOUTHWELL.”

To the Duke of ORMOND.

Though the extract from Giraldus Cambrensis may appear at first sight to be foreign to the subject, and to the general scope and tendency of this work; yet, as it is the best and most authentic account of that expedition, and is in itself a complete refutation of those ideas which have occasionally prevailed, and often pervade political discussions about the conquest of Ireland, it cannot appear altogether irrelative to the design of this compilation: besides, this narrative must be peculiarly interesting to the descendants of many respectable and ancient families, whose establishments

ments in Ireland are recorded at that distant period.

In the history of the past and present mode of passing laws in Ireland, and of the body of orders adopted in the reign of Elizabeth, we may find a curious remnant of the rules and orders of the English parliament in her days. Curiosity as well as utility may be combined in those investigations, as well as in the system relative to roads and grand jury presentments, so materially different from the practice of England, which originated in the days of James I. and occupy the remainder of the preliminary discourse.

Those cases have been principally selected in the abstract of the lords' proceedings, which were applicable, and have had an influence on the proceedings of parliament in later periods, and even in our own times; in the course of the work, all the laws which passed from the commencement of the Irish parliament till one thousand six hundred

hundred and sixty-six, have been enumerated, and the most important have been particularly described; and as the articles are detached, and the first part of the work complete in itself, it was deemed expedient to publish the First, before the Second Volume.

The same plan has been followed in the history of the proceedings of the house of commons; and if, in the statement of the case of the University of Dublin, and of the violation of the original charter of Elizabeth in one thousand six hundred and forty by archbishop Laud, a private personal transaction has been alluded to, it will, it is hoped, be excused by an indulgent Public; the author having declined to make a concession where his own and the privilege of parliament were concerned.

The freedom of speech, the independence, the honor and credit of a great hereditary assembly, were then of such importance, that an individual might be justified in risking any extremity where they were in ques-

question: and cases may exist, where a member of parliament should not hesitate for a moment on the part which he should act, and perish if necessary in defence of the sacred rights of legislation; like the Roman senators, when the Gauls invaded the capital.

In the commencement of a long and arduous political service, the author has often had occasion to regret, that there were not any abridgments or short treatises on the modes and forms of parliamentary proceedings in Ireland, while so many works of a similar description were to be found in England: for this reason he engaged in this short, but comprehensive and laborious compilation; and it is offered, with due deference, to the patronage of his honored and generous countrymen, with an humble hope that his labors might be of some use hereafter to those who may engage in the service of their country from the same disinterested and patriotic intentions, but with more success.

The

The last chapter or summary of the work, was printed by way of Prospectus in Dublin; and it was communicated to some leading characters in Ireland, as it treats of modern practice, and of established usages and arrangements. Some few corrections which were proposed by them, have been readily adopted, and it is to be hoped that this summary will be found to be consonant to the present mode of proceeding in the Irish parliament.

Doubtful of his qualifications for such an undertaking, and of his style; aware of predominant prejudices against noble authors; the writer would not enter upon it without some public trial of his style and composition: for this purpose some essays were written, which appeared in the public prints under the signatures of *Themistocles*, and of *An Old Member of Parliament*; and if the assertion partake of vanity, it is the confession of gratitude also, that they were most favourably received and much approved, particularly at the interesting

teresting crisis and memorable period of the regency.

As the origin of eminent families, and the genealogies of distinguished men, are always read with pleasure and received with satisfaction; the commencement of established customs, which generally assigns the true reasons of their adoption, must be still more pleasing and satisfactory; for this reason the author has laboured to trace the forms, the orders and usages of the Irish parliament from their original source and parent stock, to their present establishment. This combination of ancient and modern times, this mode (if the expression may be allowed) of modernizing antiquity, has been adopted, in a work which has been lately translated, and which has been as favourably received as it deserved, with general esteem and approbation; namely, the professor *Putter's History of the Germanic Constitution*; a work which, we are informed in the preface, was written under the auspicious protection and liberal patronage of her majesty.

PRELIMINARY DISCOURSE.

SECTION I.

INTRODUCTION.

THOUGH this work was under- S E C T.
taken, to give an account of the ^{I.}
Proceedings of the Irish Parliament, from
the first meeting of that assembly in the
reign of king Edward the second, it may
not be inexpedient to take a short view
of some important transactions antecedent
to that period.

The origin of nations, and the precise
period of the emigration of colonies, are
difficult to trace; but, the similitude of

VOL. I.

B

customs

S E C T. ^{I.} customs and manners, which remains long
 { after their early connexions and alliances,
 often marks the parent stock, and the
 original connexion which has existed be-
 tween different countries.

Some able Antiquarians have conjec-
 tured, that the South of Ireland was ori-
 ginally peopled from Spain; and the great
 similitude of manners and of disposition,
 which is observable in the lower classes
 of people in Spain and in Ireland, seems to
 justify that opinion.

There is no reason to believe that the
 Romans had ever formed any establish-
 ment in Ireland; but from the relation
 which Tacitus gives, grounded upon the
 information of the Proconsul Agricola,
 it appears, that they had made some en-
 quiries about that country: this Procon-
 sul was of opinion *, that the island could be

* *Cœlum et solum in Hibernia haud multum a
 Britannia differt, melius aditus portusque per nego-
 ciatores cogniti.*

TACITUS in vita Agricolæ.

subdued by one legion; that the soil and climate varied very little from that of England; but that the harbours were better, and that at that æra they were well known and much frequented by traders and merchants.

SECT.

I.

Of the establishments of the Danes in Ireland, many monuments still remain. The Rathes or sepulchral mounds, which are supposed to have been raised by the Danes; and the cylindrical towers, similar to those which Mr. Cox has remarked in his travels in Denmark, are peculiarly conspicuous in many parts of Ireland. The barony or hundred of *Forth*, a district of the county of Wexford, is remarkable for a race of inhabitants, who differ materially in their manners from the rest of the lower classes of the people in Ireland: they are not only noted for their industry, their perseverance, their honesty and fair dealings, but also for their pronunciation, and that antique method of spelling, which is observable in the old English style and language.

S E C T.

I.

guage. It is said, that this peculiarity of manners has lately become the object of the inquiries of some curious Antiquarians; and possibly the learned world may be favoured with disquisitions, upon a subject as curious as that relative to the ancient language of Cornwall, which has engaged the able and penetrating curiosity, and the learned and laborious investigation, of Mr. Daines Barrington.

The inhabitants of this district are supposed to be the genuine descendants of the first English adventurers under the earl Strongbow, before the arrival of king Henry the second in Ireland, who still preserve manners similar to those of the lower classes of the people in England, after the long lapse of so many ages.

But, as the expedition of that prince forms the memorable epoch of the first political connexion of these islands; as the accounts of cotemporary writers are not only the most authentic, but the most curious, inte-

interesting, and entertaining; as many infer- S E C T.
ences have been drawn from that memo- I.
rable expedition, which have been made from
false premises, and misrepresentations of mat-
ters of fact; the following translation of a
part of the history of Giraldus Cambrensis,
who accompanied Henry the second, and
afterwards king John, into Ireland, from
Mr. Hooker's works, who was a member
of parliament in both kingdoms in the
reign of Elizabeth, may not be unacceptable
to the reader; since it is the root and source
whence all succeeding historians have deri-
ved their narratives and representations.

Account of the Expeditions of Earl Strongbow, and of Henry the Second, into Ireland; from Giraldus Cambrensis.

SECT.
I.

A. D.
1168-9.

DERMON MacMorogh, prince of Leinster, and governor of the fifth part or portion of Ireland, did, in our time, possess and enjoy the east part of the land which bordereth and lieth towards England; being dissevered from the same by the main seas. This man, from his very youth and first entry into his kingdom, was a great oppressor of his gentlemen, and a cruel tyrant over his nobles; which bred unto him great hatred and malice. Besides this, there befel to him another mischief: for Ororike, prince of Meath, was gone a journey, leaving his wife, the daughter of Omolaghlin, behind, in a certain island near Meath; there to remain and tarry until his return. She (I say) and this Dermon had been long enamoured and in love, the one with the other; and she watching a time how

how to have love and lust satisfied, taketh
 advantage of her husband's absence, and
 yieldeth herself to be ravished, because she
 would be ravished: for, by her own pro-
 curement and enticings she became and
 would needs be a prey unto the preyer.
 Such is the variable and fickle nature of a
 woman, by whom all mischiefs in the world
 (for the most part) do happen and come, as
 may appear by Marcus Antonius, and by
 the destruction of Troy.

S E C T.

I.

A. D.

1168-9.

King Ororike being advertised hereof,
 was forthwith marvelously troubled and in
 a great choler, but more grieved for shame
 of the fact, than for sorrow or hurt; and
 therefore is fully determined to be aveng-
 ed; and forthwith assembleth all his people
 and neighbours, as also procured unto his
 aid and for his help, Rothorike, king of
 Connaught, and then monarch of all Ire-
 land.

The people of Leinster, considering in
 what distress their prince was, and how on

S E C T. ^{I.} every side he was beset of his enemies, they
 also call to mind the old sores and griefs
 which they of long time had dissembled;
 and to be avenged, they make league and
 become friends with their enemies, and ut-
 terly leave and forsake their king. Dermon
 seeing himself thus forsaken and left de-
 stitute, and that fortune frowned upon him,
 (for he had oftentimes encountered with his
 enemies and ever had the worst,) determined
 at length, as to his last refuge, to fly over
 the seas, and to seek for some better chance.

By this event and sequel of this man, as
 also by many other like examples, it ap-
 peareth, that it is better for a prince to rule
 over a people which of a good-will and love
 do obey him, than over such as be froward
 and stubborn. This Nero well felt, and
 Domitianus well knew, and Henry duke of
 Saxony and Bavaria well tried. It is more
 necessary and expedient for a prince, to be
 rather beloved than feared; so that the
 fear do rather proceed from a good-will
 than of compulsion: for whatever is out-
 wardly

wardly only, and to the shew, loved and received, the same of consequence must be feared: but whatsoever is feared, that is not forthwith loved. Love did enlarge the empire of Augustus, but fear shortened the life of Julius Cæsar. Well, MacMorogh, following fortune, and yet in hope that once again she will turn her wheel, having wind and weather at will, taketh ship, passeth over the seas, and went unto Henry the second king of England, and most humbly and earnestly prayeth his help and succour: who being then in remote places in France and Aquitain, and busied in great and weighty affairs, yet most courteously he received him, and liberally rewarded him. And the king having at large and orderly heard the causes of his exile and of his repair unto him, he took his oath of allegiance, and swore to be his true vassal and subject: and thereupon he granted and gave him his letters patent, in manner and form as followeth: “ Henry king of England, “ duke of Normandy and Aquitain, and “ earl of Anjou, unto all his subjects, Englishmen,

S E C T.
I.A. D.
1168-9.

S E C T. I.
 {
 A. D.
 1168-9.

“ lishmen, Normans, Scots, and all other
 “ nations and people, being his subjects,
 “ sendeth greeting: Whensoever these our
 “ letters shall come unto you, know ye
 “ that we have received Dermon prince of
 “ Leinster into our protection, grace, and
 “ favour: wherefore, whosoever within our
 “ jurisdiction will aid and help him, our
 “ trusty subject, for the recovery of his land,
 “ let him be assured of our favour and
 “ licence in that behalf.”

Dermon MacMorogh, having received
 great comfort and courtesy of the king,
 taketh his leave, and returneth homeward
 through England. And albeit he had been
 very honourably and liberally rewarded of
 the king, yet he comforted himself more
 with the hope of good success to come, than
 with liberality received. And by his daily
 journeying he came at length to the noble
 town of Bristol; where, because ships and
 boats did daily repair and come from out of
 Ireland, and he was very desirous to hear of
 the state of his people and country, he did
 for

for a time sojourn and make his abode: and whilst he was there, he would oftentimes cause the king's letters to be openly read, and did then offer great entertainment, and promised liberal wages to all such as would help or serve him; but it served not.

S E C T.

I.

A. D.
1168-9.

At length Gilbert, the son of Gilbert earl of Chepstow, came to see him, and to talk with him; and they so long had conferred together, that it was agreed and concluded between them, that the earl, in the next spring following, should aid and help him: and in consideration thereof, the said Dermon should give him his only daughter and heir to wife, together with his whole inheritance, and the succession to his kingdom. These things orderly concluded, Dermon MacMorogh being desirous (as all others are) to see his natural country, departed and took his journey towards St. David's Head *, or Stone, in South Wales; for, from thence

* The distance from St. David's Head, to the nearest point of land in Ireland, in the county of Wexford, does

S E C T. I. ^{I.} thence is the shortest cut over into Ireland, the same being not a day's sailing, and which in a fair day a man may ken and discern. At this same time Rice Fitzgriffith was chief ruler under the king in those parts, and David the second, then bishop of St. David's, had great pity and compassion upon his distresses, misery, and calamity.

A. D.
1168 9.

Dermon thus languishing, and lying for a passage, comforted himself as well as he might, sometime drawing, and as it were breathing, the air of his country, which he seemed to breathe and smell; sometimes viewing and beholding his country, which in a fair day a man may ken and descry. At this time Robert Fitzstephens, under Rice, had the government, and was constable of Aberteife, the chief town in Caretica; and by the treachery and treason of his own men was apprehended, taken, and delivered

does not measure more upon the map, than between forty or fifty miles; the distance between Milford Haven and the nearest point of the county of Waterford, is eighty-five miles.

unto

unto Rice, and by him was kept in prison three years; but now delivered, upon condition he should take part and join with Griffith against the king. But Robert Fitzstephens considering with himself, that on his father's side (who was a Norman) he was the king's natural subject, although by his mother the lady Nesta, daughter to the great Rice Fitzgriffith, he was cousin german to the said Fitzgriffith, chose rather to adventure his life and to seek fortune abroad and in foreign countries, than to hazard his faith, credit, and fame, to the slander, reproach, and infamy, of himself and of his posterity. At length, by the earnest mediation of David bishop of St. David's, and of Maurice Fitzgerald *, which were his half brothers by the mother's side, he was set free and at liberty: and then it was agreed and concluded between them and MacMorogh, that he, the said MacMorogh, should give and grant unto the said Robert Fitzstephens and Maurice Fitzgerald, the town

S E C T.

I.

A. D.

1168-9.

* The ancestor of the duke of Leinster.

of

SECT. of Wexford, with two cantreds of land adjoining, and to their heirs in fee for ever:
I.
A. D.
1168-9. and they, in consideration thereof, promised to aid and help him to recover his lands the next spring then following; and to be then with him without fail, if wind and weather so served. Dermot being weary of his exiled life and distressed estate, and therefore the more desirous to draw homewards for the recovery of his own, and for which he had so long travelled and fought abroad; he first went to the church of St. David's, to make his orisons and prayers, and then the weather being fair and wind good, he adventureth the seas about the middle of August; and having a good passage, he shortly landed in his country; and, with a very impatient mind, hazarded himself among and through the middle of his enemies; and coming safely to Ferns, he was very honourably received of the clergy there, who, after their ability, did refresh and succour him; but he for a time dissembled his princely estate, and continued as a private man all that winter among them.

In

In the meantime, Robert Fitzstephens, not unmindful nor careless of his word and promise, provideth and prepareth all things in readiness, and being accompanied with thirty gentlemen of service, of his own kinsfolk, and certain armed men, and about three hundred archers and footmen, which were all of the best chosen and picked men in Wales, they all ship and embark themselves in three fundry barks; and sailing towards Ireland, they land about the calends of May at the Bann*. Then was the old prophecy of Merlin fulfilled, which was, that a knight biparted should first enter with force of arms, and break the bonds of Ireland. If

S E C T.

I.

A. D.
1168-9.A. D.
1170.

* The Bann is a little creek, lying in the county of Wexford near Fithier, a fishing-town which belongs to the bishoprick of Ferns, the open sea being on the east, and not far from the Haven's mouth on the south; and it seems that Fitzstephens mistook the place, or was driven in there, as it was very unfit for a harbour; but this being the place where the English first landed, several monuments were erected in memory of it, and were called Banna and the Boenna; which were the names, according to tradition, of the two greatest ships in which the English arrived.

S E C T. you will understand the mystery hereof,
 I.
 A. D. 1170. you must have respect to his parents, for his
 father was a Norman and an Englishman;
 his mother, the noble lady Nesta, was a
 Camber, or a Briton; in his company also
 was Hervy* of Mount Maurice, a man
 unfortunate, unarmed, and without all fur-
 niture; but he travelling in the behalf of the
 earl Richard, to whom he was uncle, was
 rather a spy than a soldier. On the next day
 following, Maurice of Prendelgast, a lusty
 and hardy man, and born about Milford in
 West Wales, with ten gentlemen of service,
 and a good number of archers, embark
 themselves in two ships, and arrive also at
 the Bann; and not standing well assured of
 their safety, by reason their coming was
 blown abroad through the whole country,
 they with all haste sent messengers to Der-
 mon, advertising him of their coming;
 whereupon divers of that country, who
 dwelling upon the sea coasts, and who, when

* This chieftain is mentioned as a cadet of the Montmorency family, in the memoirs of that house.

fortune frowned, had and did shrink away from Dermon, now perceived that she favoured him again, returned and fawned upon him, according to the saying of the poet in these words,

SECT.
I.
A. D.
1170.

“As fortune, so the faith of man doth stand or fall.”

MacMorogh, as soon as he heard of their landing and coming, sent his son Donald, a valiant gentleman, unto them, with five hundred men: and very shortly after himself also followed, with great joy and gladness. And when they had renewed their former covenants and leagues, and had sworn each one to the other, to observe the same and to keep faith; then, though they had been people of contrary dispositions, yet being now good friends and all of one mind, they join their forces together, and with one consent do march towards the town of Wexford, which is about twelve miles distant from the Bann. When they of the town heard thereof, they being a fierce and unruly people, but yet much trusting to their wonted fortune, came

S E C T. I.
 { forth about two thousand of them, and
 were determined to wage and give battle.
 A. D. 1170. But when they saw their adversaries army
 to be better set in order than in times past,
 and that the horsemen were well armed
 with armour and shields shining bright, then,
 upon new chances and changes taking new
 counsels, they set on fire and burn their
 suburbs, and retire into the town.

Fitzstephens minding and preparing to
 give the assault, filleth the ditches with
 armed men, and setteth his archers to mark
 and watch well the turrets of the walls:
 which things done, he with great shouts and
 force giveth the assault. The townsmen
 within, being ready to stand at defence, cast
 over the walls great pieces of timber and
 stones, and by that means hurting many,
 made the rest to give over and retire.
 Among whom a lusty young gentleman,
 named Robert Barry*, being hot and of
 a lusty courage, and nothing afraid of death
 so he might atchieve glory, giveth the

* The ancestor of the earl of Barrymore.

first adventure to scale the walls: but he was stricken with a great stone upon the headpiece, wherewith he fell headlong down into the ditch and escaped very hardly, for, with much ado did his fellows draw and pull him out of the place. About sixteen years after, all his great teeth with the force and violence of this stroke fell out; and that which is very strange, new teeth grew up in their places. Upon this repulse, they all withdrew and retired from the walls, and assembled themselves upon the sea strand, where forthwith they set on fire all such ships and vessels as they could there find: among whom was one merchant ship lately come out of England, laden with wines and corn, which there lay at anchor, and a company of these lusty youths having got boats for the purpose, would have taken her; which the mariners perceiving, suddenly cut their cables and hoisted their sails, and the wind being westerly and blowing a good gale, they recovered the seas. These youths still following them, had almost lost all, and marred the market: for, if others

S E C T:
I.A. D.
1170.

S E C T. I. their fellows had not made good shift and
rowed a good pace after them, they would
scarcely have recovered the land again.
A. D. 1170. Thus fortune, which is only constant in inconstancy, seemed to have forsaken MacMorogh and Fitzstephens, and to have left them destitute of all hope and comfort: nevertheless, on the morrow, having heard divine service through the whole camp, they determined with better advice and circumspection to give a new assault, and with lusty courage drew to the walls. The townsmen within seeing this, began to distrust themselves, and to consider how most unnaturally and unjustly they had rebelled against their prince and sovereign: whereupon, being better advised, they send messengers to him to intreat for peace. At length, by the earnest intercession and mediation of two bishops, and certain good and peaceable men, which were within the town, peace was granted; and four of the best and chiefest men within the town were delivered and given for pledges and hostages, for the true keeping of the peace and their fidelity. MacMorogh,
to

to gratify his men in these his first successes, and to acquit the first adventurers, did (according to his former promise and covenant) give unto Robert Fitzstephens and Maurice Fitzgerald the town of Wexford, and the territories thereunto adjoining and appertaining, and unto Hervy of Mount Maurice he gave in fee two cantreds, lying on the sea side between Wexford and Waterford.

S E C T.

I.

A. D.

1170.

MacMorogh being by means of his good success well quieted and satisfied, bethinketh himself now of greater matters, and deviseth how and by what means he might recover his old and antient rights, as also purchase all Connaught to his subjection; and herein he used a secret conference with Fitzstephens and Fitzgerald, unto whom he uttereth and discovereth all his whole mind and intent: who forthwith gave him answer, that his devise was very easily to be compassed, if he could get a greater supply and aid of Englishmen. Whereupon he made most earnest requests unto them, both for the procuring of their kinsmen and

S E C T. I. countrymen, as also for the furthering to
 effect his purpose and device. And that he
 might the better persuade them hereunto,
 he offereth to either of them his daughter
 and heir in marriage, with the inheritance of
 his kingdom; but they both being already
 married, refused the offer. And at length,
 after much talk, they thus concluded: That,
 he should with all speed send his messengers
 with his letters unto the earl Richard, of
 whom we spake before, and to whom he
 the said MacMorogh, at his being at or
 about Bristol, had promised his daughter
 to wife; which letters were as followeth:
 “ Dermon MacMorogh, prince of Leinster,
 “ to Richard earl of Chepstowe and son of
 “ Gilbert, the earl, sendeth greeting. If you
 “ do well, consider and mark the time, as we
 “ do, who are in distress; then we do not
 “ complain without cause nor out of time,
 “ for we have already seen, that the storks
 “ and swallows, as also the summer birds,
 “ are come, and with the westerly winds
 “ are gone again; we have long looked and
 “ wished for your coming, and albeit the
 “ winds

“winds have been at east and easterly, yet
 “hitherto you have not come unto us:
 “wherefore now linger no longer, but
 “hasten yourself hither with speed, that it
 “may thereby appear not want of good-
 “will nor forgetfulness of promise, but the
 “injury of time hath been hitherto the
 “cause of your long stay. All Leinster is
 “already wholly yielded unto us, and if
 “you will speedily come away with some
 “strong company and force, we doubt not
 “but that the other four portions will be
 “recovered and adjoined to this the first
 “portion. Your coming therefore the more
 “speedy, it is the more grateful; the more
 “hasty, the more joyful; and the sooner,
 “the better welcome: and then our dislike
 “of your long lingering shall be recom-
 “pensed by your soon coming; for friend-
 “ship and good-will is recovered and
 “nourished by mutual offices, and by be-
 “nefits it groweth to a more assuredness.”

When earl Richard had read these letters,
 he taketh advice with his friends, and taking
 some comfort and stomach of the good suc-

S E C T. I.
 A. D. 1170.
 cefs of Fitzstephens, whereof he was at the first both fearful and doubtful, fully determined to bend his whole force and power to follow this service and hosting. This earl was a man of very noble parentage, and descended of very honourable ancestors; but yet more famous in name, than rich in purse; more noble in blood, than endowed with wit; and greater in hope of succession, than rich in possession. Well, he thought long ere he could wend * himself over into Ireland, and therefore to compass the same to good effect, maketh his repair to king Henry the second, and most humbly prayeth and beseecheth him, that he would either restore him to such possessions, as by inheritance did appertain unto him; or else to grant him the liberty to try and seek fortune in some other foreign country and nation.

The king having heard the earl's requests, he bethought himself awhile there-

* Wend, that is prevail upon himself to go.

of;

of; but in the end he allowed not of the one, nor granted the other, but fed him still with good speeches, and nourished him with fair words, commending his noble mind, that he would venture upon so honourable an enterprife. And in words the king seemed to give him leave to follow his device; but to say the truth, it was rather in game than in earnest, for the king minded nothing less. But the earl (taking advantage of the king's words, and accepting the same for a sufficient leave and licence,) returneth home. And the same being the winter season, and very unfit to travel into foreign nations in martial affairs, he doth now make preparation of all things fit to serve when time should require. And as soon as the winter was past, he sendeth over before him into Ireland a gentleman of his own household and family, named Reimond le Grosse; who had with him ten gentlemen of service, and threescore and ten archers well appointed, and taking shipping about the kalends of May, then landed at the rock of Dondonolfe,

S E C T.
I.A. D.
1170.

S E C T. I. nolfe, which lieth fouth from Wexford,
 and about four miles east from Waterford;
 and there they caft a trench, and builded a
 little caſtle or hold with turfs and wattle.
 This Reimond was nephew to Robert Fitz-
 ſtephens and to Maurice Fitzgerald, being
 the ſon unto their elder brother named
 William, and he was very valiant, of great
 courage, and well expert in wars and mar-
 tial affairs. The citizens of Waterford and
 Omolaghlin Ofelin, being advertiſed of this
 their arrival, and nothing liking the neigh-
 bourhood of ſuch ſtrangers, take counſel
 together what were beſt to be done; and
 finding it moſt neceſſary and needful to
 withſtand at the beginning, they do con-
 clude and determine to give the onſet upon
 them; and being about three thouſand men,
 they take boat and row down the river of
 the Suir, (which floweth faſt by the walls of
 Waterford on the eaſt, and divideth Leinſter
 from Munſter,) and ſo came to the place
 where Reimond and his company were,
 where they landed, and ſet their men in
 order for the assaults, and marched boldly

to the ditches of Reimond's fortrefs or castle; but then it appeared how valiant-
 nefs can never be hid, lufly courage be
 daunted, nor yet prowefs or worthinefs be
 blemifhed: for, Reimond and his company,
 although they were but few in number,
 and too weak to encounter with fo great a
 company as their adverfaries were, yet,
 being of courageous minds and lufly fto-
 machs, went out to meet with their ene-
 mies; but when they faw that their fmall
 number was not fufficient nor able in the
 plains to abide nor endure the force of fo
 great a multitude, they retired to their fort.
 The enemies thinking then to difcomfit and
 clean to overthrow them, followed and
 purfued them fo fhortly, that the Englifh-
 men were no fooner in at the gates but the
 Irifhmen were alfo at their heels, and fome
 of them within the gate. Which thing
 when Reimond faw, and confidering alfo
 with himfelf what a diftrefs and peril he
 and all his were in, fuddenly turneth back
 his face upon his enemies; and the firft of
 them that entered, he ran him through
 with

S E C T.
 I.
 A. D.
 1171.

S E C T. with his sword, (or, as some say, cleaved
^{I.}
his head afunder,) and then with a loud
A. D. voice cried out to his company, to be of
1171. good comfort, who forthwith, as they turned
and stood most manfully to their defence,
so their enemies being also dismayed and
afraid at the death of that one man, they
all fled and ran away; and then they
who in this doubtful chance of fight were
thought to be vanquished and clean
overthrown, suddenly became to be the
victors and conquerors. And these sharply
then pursued their enemies, who were scat-
tered abroad in the plains and out of ar-
ray, so that in a very short time and space
they slew above five hundred persons; and
being weary with killing, they cast a great
number of those whom they had taken pri-
soners headlong from the rocks into the
sea, and so drowned them. In this fight
and service, a gentleman, named William
Ferand, did most valiantly acquit him-
self; for, albeit, he was but a weak body,
yet was he of a very stout stomach and
courage; he was diseased and sick of the
leprosy,

leprosy, and therefore rather desirous to die
 valiantly, than to live in misery; and for
 that cause, would and did adventure him-
 self in places where most peril and danger
 was, and seemed to be, thinking it good
 with a glorious death to prevent the grief
 and loathsomeness of a grievous disease.

S E C T.

I.

A. D.

1171.

Thus fell the pride of Waterford, thus
 decayed their strength and force, and thus
 began the ruin and overthrow of that city;
 which, as it bred a great hope and consola-
 tion to Englishmen, so was it the cause
 of a great desperation and terror to the
 enemies. It was a strange matter in
 those parts, that so great a slaughter should
 be made by so small a number; neverthe-
 less, by evil counsel and too much cruelty,
 the Englishmen abused their good success
 and fortune: for, having gotten the vic-
 tory, they secured seventy of the best citi-
 zens, whom they kept prisoners; and for
 the ransom or redemption of these, they
 might have had either the city of Water-
 ford yielded and surrendered unto them,
 or such a mass of money as they would
 them-

S E C T. I. themselves. But Hervy of Mount Mo-
 ris *, who came over with some gentle-
 men of service, joined his countrymen and
 Reimond; and these two, being both of con-
 trary minds, strove the one with the other
 what were best to be done herein.

A. D.
 1171.

1172.

These things being done, and all pre-
 pared in a readiness fit for a noble en-
 terprise, and for which king Henry
 stayed a long time in Wales, he went to
 St. David's church, where, when he had
 made his prayers, and done his devotion,
 the wind and weather well-serving, he
 took shipping and arrived at Waterford, in
 the kalends of November, being St. Luke's
 day, having in his retinue five hundred
 gentlemen, and of bowmen and horsemen
 a great number. This was in the seven-
 teenth year of his reign, the one and for-

* The chieftain's name is spelt differently, not only
 by Giraldus Cambrensis, but by other historians. Dr.
 Leland calls him Hervey of Mountmorres. From what
 follows, it appears, that the city of Waterford was
 surrendered to obtain the liberty of the prisoners, and
 thereby a safe reception was provided for king Henry
 the second and his army.

tieth of his age, and in the year of our Lord one thousand one hundred and seventy-two; Alexander the third then pope, Frederick then emperor, and Lewis then French king. And now was fulfilled the prophecy of Merlin, that a fiery globe should come out of the east, and should devour and consume all Ireland round about; and likewise the prophecy of Saint Molin, that out of the east should come a mighty burning wind, and rush thorough to the west, and should run thorough and overthrow the force and strength of Ireland.

S E C T.

I.

A. D.

1172.

These things thus done at Waterford, the king left Robert Fitzbarnard there with his household, and marched himself to Dublin through the country of Offory; and staying somewhat by the way in his journey, there came and resorted unto him, out of every place there, the great men and princes; namely, Machelan Othelan prince of Offory, Mache Talewie, Othwelie Gillemiholoth, Ochadese, O'Carell of Uriell, and Ororike of Meath, all of which yielded

S E C T.

I.

A. D.

1172.

yielded and submitted themselves to the king in their own persons, and became his vassals, and swore fealty. But Rothorike, the principal monarch, came no nearer than to the river side of the Shannon, which divided Connaught from Meath, and there Hugh de Lacy, and William Fitzaldeline, by the king's commandment, met him, who, desiring peace, submitted himself, swore allegiance, became tributary, and did put in (as all others did) hostages and pledges for keeping the same. Thus was all Ireland, saving Ulster, brought in subjection, and every particular prince in his proper person did yield and submit himself, saving only Rothorike, the then monarch of all Ireland; and yet by him, and in his submission, all the residue of the whole land became the king's subjects, and submitted themselves: for indeed, there was no one within that land, who was of any name or countenance, but that he did present himself before the king's majesty, and yielded unto him subjection and due obedience.

Henry

Henry the second, king of England, was of a very good colour, but somewhat red; his head great and round, his eyes were fiery, red, and grim, and his face very high-coloured; his voice or speech was shaking, quivering, or trembling; his neck short, his breast broad and big, strong-armed, his body was gross, and his belly somewhat big, which came to him rather by nature than by any gross feeding or surfeiting: for his diet was very temperate, and to say the truth, thought to be more spare than comely, or for the state of a prince; and yet to abate his grossness, and to remedy this fault of nature, he did, as it were, punish his body with continual exercise, and did, as it were, keep a continual war with himself. For in the times of his wars, which were for the most part continual to him, he had little or no rest at all; and in times of peace, he would not grant unto himself any peace at all, nor take any rest: for then did he give himself wholly unto hunting, and to follow the same he would very early every morning be on horseback, and then go into

S E C T.
I.A. D.
1172.

S E C T. I. the woods, sometimes into the forests, and
sometimes into the hills and fields, and so
would he spend the whole day until night.
In the evening when he came home, he
would never, or very seldom, sit either be-
fore or after supper; for though he were
never so weary, yet still would he be walk-
ing and going. And for as much as it is
very profitable for every man in his life-
time, that he do not take too much of any
one thing, for the medicine itself which is
appointed for a man's help and remedy is
not absolutely perfect and good to be al-
ways used, even so it befel and happened
to this prince; for, partly by his excessive
travels, and partly by divers bruises in his
body, his legs and feet were swollen and
fore. And though he had no disease at all,
yet age itself was a breaking sufficient unto
him. He was of a reasonable stature;
which happened to none of his sons: for
his two eldest sons were somewhat higher,
and his two younger were somewhat lower
and less than he was. If he were in a
good mood, and not angry, then would he
be

be very pleasant and eloquent : he was also
 (which was a thing very rare in those days)
 very well learned ; he was also very affable,
 gentle, and courteous ; and besides so piti-
 ful, that when he had overcome his enemy,
 yet would he be overcome with pity to-
 wards him.

S E C T.
I.A. D.
1172.

In wars he was most valiant, and in
 peace he was as provident and circumspect.
 And in the wars, mistrusting and doubting
 of the end and event thereof, he would
 (as Terence writeth) try all the ways and
 means he could devise, rather than wage
 the battle. If he lost any of his men in
 the fight, he would marvelously lament his
 death, and seem to pity him more being
 dead, than he did regard or account of him
 being alive ; more bewailing the dead, than
 favouring the living. In times of distress
 no man was more courteous, and when all
 things were safe no man more cruel.
 Against the stubborn and unruly no man
 more sharp, nor yet to the humble no man
 more gentle ; hard toward his own men

S E C T. and household, but liberal to strangers;
 I. bountiful abroad, but sparing at home:
 A. D. whom he once hated, he would never or very
 1172. hardly love; and whom he once loved, he
 would not lightly be out with him, or for-
 sake him: he had great pleasure and de-
 light in hawking and hunting. Would to
 God he had been as well bent and disposed
 unto good devotion * !

It was said, that after the displeasure
 grown between the king and his sons, by
 the means and through the enticing of
 the queen their mother, he never was ac-
 counted to keep his word and promise,
 but, without any regard or care, was a
 common breaker thereof. And true it is,
 that, of a certain natural disposition, he
 was light and inconstant of his word; and
 if the matter were brought to a narrow
 strait or pinch, he would not stick rather
 to cover his word, than to deny his deed.
 And for this cause in all his doings, he was

* Giraldus here alludes to his quarrel with Thomas
 a Becket.

very provident and circumspect, and a very upright and severe minister of justice, although he did therein grieve and make his friends to smart. His answers, for the most part, were perverse and froward. And, albeit, for profit and lucre all things are set to sale, and do bring great gains, as well to the clergy as to the laity, yet they are no better to a man's heirs or executors, than were the riches of Gehazi, the servant of Elizeus, whose greedy takings turned himself to utter ruin and destruction.

S E C T.

I.

A. D.

1172.

He was a great peace-maker, and careful keeper thereof himself; a liberal almsgiver, and a special benefactor to the holy land; he loved humility, abhorred pride, and much oppressed his nobility. The hungry he refreshed, but the rich he regarded not. The humble he would exalt, but the mighty he disdained. He usurped much upon the holy church; and of a certain kind of zeal, but not according to knowledge, he did intermingle and con-

S E C T. join the profane with holy things; for
I. why? he would be all in all himself. He
A. D. was the child of the holy church, and by
1172. her advanced to the sceptre of his kingdom; and yet he either dissembled or utterly forgot the same; for he was slack always in coming to the church unto the divine service, and at the time thereof he would be busied and occupied rather in councils and in conference about the affairs of his commonwealth, than in devotion and prayer. The livelihoods belonging to any spiritual promotion, he would, in time of vacation, confiscate to his own treasury, and assume that to himself which was due unto Christ. When any new troubles or wars did grow, or come upon him, then would he lavish and pour out all that ever he had in store or treasury, and liberally bestow that upon a soldier, which ought to have been given unto the priest. He had a very prudent and forecasting wit, and thereby foreseeing what things might or were like to ensue, he would accordingly order or dispose either
for

for the performance or for the preven-
tion thereof; notwithstanding which, many
times the event happened to the contrary,
and he was disappointed of his expecta-
tion: and commonly there happened no ill
unto him, but he would foretel thereof to
his friends and familiars.

SECT.
I.

A. D.
1172.

He was a marvellous natural father to
his children, and loved them tenderly in
their childhood and young years; but they
being grown to some age and ripeness, he
was as a father-in-law, and could scarcely
brook any of them. And notwithstanding
they were very handsome, comely, and noble
gentlemen, yet, whether it were that he
would not have them prosper too fast, or
whether they had evil deserved of him, he
hated them; and it was full much against
his will that they should be his successors,
or heirs to any part of his inheritance. And
such is the prosperity of man, that as it can-
not be perpetual, no more can it be perfect
and assured: for why? such was the secret
malice of fortune against this king, that

SECT. I. where he should have received much comfort, there had he most sorrow: where quietness and safety, there unquietness and peril: where peace, there enmity: where courtesy, there ingratitude: where rest, there trouble. And whether this happened by the means of their marriages, or for the punishment of the father's sins, certain it is, there was no good agreement, neither between the father and the sons, nor yet among the sons themselves.

A. D.
1172.

But at length, when all his enemies and the disturbers of the common peace were suppressed, and his brethren, his sons and all others his adversaries, as well at home as abroad, were reconciled; then all things happened and befel unto him (though it were long first) after and according to his own will and mind. And would to God he had likewise reconciled himself unto God, and by amendment of his life had in the end also procured his favour and mercy! Besides this, which I had almost forgotten, he was of such a memory, that
if

if he had seen and known a man, he would not forget him: neither yet whatsoever he had heard, would he be unmindful thereof.

SECT.
I.

A. D.
1172.

And hereof was it that he had so ready a memory of histories which he had read, and a knowledge and a manner of experience in all things. To conclude, if he had been chosen of God, and been obsequious and careful to live in his fear and after his laws, he had excelled all the princes of the world: for, in the gifts of nature, no one man was to be compared unto him.

Thus much briefly, and yet not much beside the matter, I have thought good to deliver; that having in few words made my entry, other writers may have the better occasion more at large to discourse and intreat of this so worthy an history.

From this account of Giraldus Cambrensis, who accompanied Henry the second, and afterwards king John, in their expeditions into Ireland, who relates transactions of which he himself was an eye-witness, from whose narrative

S E C T.

I.

A. D.

1172.

narrative all subsequent historians have been furnished with their principal materials and most important facts; it is plain, that the submission of the Irish to Henry the second was voluntary; that they forfeited no rights, since there was no transgressions against that prince; and that no right of conquest could be urged against a people who had never been hostile to him, or given him even the shadow of offence.

Though the principal chieftains submitted to Henry the second, the far greater part of the people of Ireland retained their own usages, customs, and laws. Even so late as the reign of Elizabeth, the customs, and the canons of descent by the law of Tanistry prevailed, and the Tanists or judges, who were chosen by the Irish tribes, were the chief dispensers of the law.

Nor was it till the reign of king James the first, that regular circuits were appointed, that the king's writs prevailed, and that the English laws predominated universally

fally in Ireland. Till the reign of Edward S E C T.
I.
the sixth, the English government prevailed A. D.
1172.
only in a colony which occupied a space of
about twenty miles square: for this curious
fact we have the authority of an act of
parliament of the thirteenth of Henry the
eighth, chapter 3. and the proof in these
words: "*There are only four shires where*
"*the king's laws are occupied in this land;*"
namely, Dublin, Kildare, Meath, and Uriel,
or Lowth: but, as the discovery of the
causes why Ireland was never entirely sub-
dued, till the reign of James the first, by sir
John Davis *, is so ample and satisfactory
upon this subject, I shall content myself with
a reference to that brief but excellent and
comprehensive work, and confine these re-
marks to the origin and progress of parlia-
ments in Ireland.

* Sir John Davis, p. 206.

SECTION II.

*Of the Sessions of Parliament in Ireland,
from the ninth Year of Edward the
Second, till the Reign of Elizabeth.—
History of Poynings' Law.*

SECT.
II.

A. D.
1316, to
1560.

THE first parliament which was regularly and formally assembled in Ireland, was, according to the best antiquarians, in the ninth year of the reign of Edward the second: it was summoned in consequence of an invasion from Scotland under Edward Bruce; and to guard against the oppressions the people laboured under, from military exactions and the extortions of the great lords, from their tenants and vassals, under pretence of national defence; and consequently, of the five acts of parliament which appear in the records of this session, three relate to provisions against those exactions, and two to the establishment of proper remedies in the king's courts of law.

Though

Though it appears from sir John Davis, S E C T.
II.
that parliaments were held in the succeeding A. D.
1316, to
1560.
reign, and probably in those of Richard the
second, and of Henry the fourth and fifth;
yet there are no laws cited by him, nor
do we find any acts of parliament passed
in those sessions which appear upon the statute
books, printed in one thousand seven hun-
dred and sixty-two, in consequence of an
address from the house of lords, under the
authority and inspection of the lord chan-
cellor and judges; before which time they
were collected, as the statutes have been in
England, by private lawyers; of which the
first collection was made in one thousand
six hundred and twenty-one, by sir Richard
Bolton, afterwards lord chancellor.

Probably, many of the records have been
lost in disturbed and rebellious periods. A
list of the few records of those early times
are preserved in a report made in the house
of lords in one thousand seven hundred and
fifty-seven. This inquiry into the state of
the records had been instituted by the late
lord Clanbrassil at that time, who was so well
known

S E C T. known in England as the chairman of the
 II. secret committee relative to fir Robert Wal-
 A. D. pole's administration, under the title of lord
 1316, to Limerick.
 1560.

From the reign of Edward the second, till the reign of Henry the sixth, there are no acts of parliament recorded in the statute books. But it appears from those books, that parliaments were held in the seventh, eighth, tenth, and twenty-fifth years of his reign, under three different chief governors; and from the twenty-eighth year of his reign, they were summoned almost every year under the duke of York; who was for ten years and more lord lieutenant. And eight parliaments were summoned during the short reign of Edward the fourth; which appear to be held nearly one every second year, during that period.

Of the acts which passed during these last periods; that law which enjoins the residence of the clergy, under the penalty of forfeiture

feiture of their benefices for a year's absence, and takes away the benefit of the king's licence; and an act which prohibits appeals to England, seem to be the most remarkable. It is generally supposed that some acts were passed in the lieutenancy of the duke of York, to the prejudice of the rights of the crown in England; probably this law about appeals to England, which was cited and much relied upon in the representation of the house of lords to king George the first, and upon the proceedings in the great cause of Sherlock and Annesly, in one thousand seven hundred and seventeen, and one thousand seven hundred and nineteen, was one of them; and this perhaps gave rise to that famous law of sir Edward Poynings, in the tenth year of king Henry the seventh.

S E C T.
 II.
 A. D.
 1316, to
 1560.

In the eighth year of this last king, a parliament was held, when only one law passed: and in the tenth year of his reign, another parliament, which was remarkable, not only for the number of twenty-two acts which were passed, but for their great weight and influence in succeeding ages;

of

S E C T. of which, that which authorises the trea-
 II.
 { furer to create delegates, and gives to the
 A. D. officers of the treasury the same powers as
 1316, to in England; and that statute which adopts
 1560. all the laws of England antecedent to that
 period; and lastly, the famous act emphati-
 cally called Poynings' Law, which regulated
 the mode of summoning parliaments, and
 of passing laws, appear to be the most re-
 markable.

Till this period, laws were passed, and the
 lord lieutenants gave the royal assent from
 their own power and authority, as the king
 did in England: but a bad use having been
 made of this power in the disputes be-
 tween York and Lancaster, particularly by
 Richard duke of York, it was enacted by
 this law, that no parliament should be held
 in Ireland, till the chief governor and coun-
 cil should certify to the king, the causes and
 considerations for holding the same; or in
 other words, all the acts which were in-
 tended to be passed in the ensuing parlia-
 ment.

This

This law appears to have been rigidly enforced in the subsequent parliaments, of the fourteenth and fifteenth of Henry the seventh; and of the seventh, the thirteenth, and the twenty-fifth of Henry the eighth: but in the twenty-eighth and thirty-third years of that monarch's reign, two parliaments were held, which were confirmed, notwithstanding the prescriptions of Poynings' law had not been observed, by two laws which repealed Poynings' act; and the last of them declares any person guilty of felony, who should dispute the validity of that parliament, notwithstanding it had been held contrary to the tenor of that law. Probably, the impossibility of foreseeing all the provisions which the exigencies of the state might render necessary to be passed into laws, rendered these temporary repeals unavoidable.

S E C T.
II.
A. D.
1316, to
1560.

The fickle disposition of this prince, his capricious temper and numerous marriages, must have given rise to many unforeseen exigencies, which could not be foretold or

S E C T.

II.

}

A. D.

1316, to

1560.

provided for before-hand; and must have required a sudden remedy: of this, the laws in this parliament, for the succession of the king and queen Anne Boleyn; the act restraining proctors or clergymen from sitting in parliament; a law against the authority of the pope; and the celebrated law of the thirty-third of Henry the eighth, which preserves the unity of the executive power in England and Ireland; and prescribes, that whoever should be *de facto* king in one, should be also sovereign in the other, are presumptive demonstrations.

In the thirty-third of Henry the eighth another session was held, and two in the thirty-fourth year of his reign; and in the third and fourth of Philip and Mary, an act passed for the explanation of Poyning's law; by which, permission was given to the lord lieutenant and council, while the parliament was sitting, to certify to the king such provisions as they might deem expedient to be formed into laws during a session of parliament; a regulation which

which naturally arose from the fluctuating state of the times. This reign was distinguished by a reconciliation to, as the last had been for an alienation from, the supremacy of Rome; and the various provisions for the re-establishment of the old doctrines, and the ancient religion, with which the latter part of this session was occupied, could not be foreseen before the meeting of parliament. The fifth and sixth statutes of this session contain punishments for elders and vagabonds, and the seventh act contains prohibitions against the distilling of brandy and other spirituous liquors from corn without licence; which is the first law of this kind that appears upon the Irish statute books.

SECT.
II.
A. D.
1316, to
1560.

This * was the only parliament held in this reign. In the beginning of the reign of

* In this session fifteen laws were passed; nine of which, at the latter end of it, that relate principally to religious matters, have been since repealed. The three first acts of this year relate to the reduction of, and the establishment of, the laws of England in the counties

S E C T. of Elizabeth, parliaments were held at one
 II. period of it very frequently. In the second
 A. D. year of her reign a session was held, which
 1316, to was entirely occupied in passing several
 1560. laws for restoring the ecclesiastical jurisdiction of the crown, and abolishing the system of the preceding sovereign. Four sessions of parliament were held in the eleventh of Elizabeth; two in the twelfth, one in the twenty-fifth, and another in the twenty-eighth of her reign; of which I shall give some account in the next chapter. In the second session of the eleventh of Elizabeth, an act passed for suspending the provisions of Poynings' law, in consequence of some unforeseen difficulties that arose in the collection of her revenue. This seems to have been an unnecessary measure; as provision had been made for such laws as were necessary to be made while the parliament was sitting, by an act in the third and fourth year of her predecessor.

counties of Leix and Offaly; which, in honour of Philip and Mary, were called the King's and Queen's counties, as the county towns were, for the same reason, called Philipstown and Maryborough.

From

From a subsequent law of another session S E C T.
II.
 in the same year, it appears that this act A. D.
1316, to
1560.
 was probably carried in a thin house and
 by surprise; for it was thereby enacted,
 that any proposition for suspending Poy-
 nings' law, should be agreed upon by the
 greater number of the lords and com-
 mons; which, taken in a literal sense, ap-
 pears very extraordinary, as that is the
 case of every proposition, and of every
 law, which passes in parliament.

But, the true meaning of this law pro-
 bably was, that the major part of the lords
 and commons who were summoned to
 parliament, not those who were present on
 a given day, should consent to such a pro-
 position. This regulation was strictly com-
 plied with in one thousand seven hun-
 dred and eighty-two, as the present happy
 alteration in the mode of holding parlia-
 ments, and of passing of laws, was passed
 unanimously.

Various were the disputes, and infinite
 were the jealousies, which were engendered

SECT.
II.

A. D.
1316, to
1560.

by this pernicious law, till the last happy period in the Irish parliament. It was usual, at the beginning of every new parliament, for the council to send to England a short money-bill, which the house of commons constantly rejected. This was the cause of a dissolution of parliament in one thousand six hundred and ninety-two, and of a prorogation in one thousand seven hundred and sixty-nine; in both which cases, two lord lieutenants, lord Sidney and lord Townshend, entered protests upon the lords' journals against the votes of the house of commons: measures which were violent, impolitic, and contrary to the usages of parliament.

This law was regarded by some as a sacred palladium of the English government, which it was almost sacrilegious to touch; and to propose its repeal, was considered as a political profanation. Even doubts seem to have been entertained of the propriety of such a proposition, by the following entry on the second of December one

one thousand seven hundred and fifty-
 seven* : “ Resolved, That it is the un-
 “ doubted right of every member to de-
 “ clare his opinion touching the construc-
 “ tion of Poynings’ law, and to move for
 “ its repeal, without incurring any pains
 “ or penalties for the same ; and any threat
 “ to deter a member from so doing, is a
 “ breach of the privilege of this house.”

S E C T.
 II.

A. D.
 1316, to
 1560.

This truism, for such it certainly was, has a very extraordinary aspect upon the journals. But the following account of it, which I had from lord Pery, the late speaker of the house of commons, who was the member alluded to in this resolution, contains not only a curious parliamentary anecdote, but also throws a just light upon this resolution :

Mr. Pery had made a proposition relative to the construction of Poynings’ law, which had produced a debate, in the course of which, the late Mr. Malone happened

* Commons’ Journal, vol. x. p. 366-7.

S E C T. II.
 {
 A. D.
 1316, to
 1560.

unguardedly to say, "That the gentleman
 " would do well to take care of what he
 " said, or what he proposed, because, per-
 " haps, he might be involved in the penal-
 " ties of felony." This odd assertion from
 a man of the greatest weight, knowledge,
 and character, and who was then
 confessedly the leading member of that
 assembly, had a most extraordinary effect;
 and, after some warm altercation, Mr.
 French, the worthy representative of Gal-
 way, moved the foregoing resolution; upon
 which the house divided, and, as the cur-
 rent flowed strongly in its favour, and a
 large body passed through the bar, the go-
 vernment did not choose to be left in a
 small minority, and Mr. Rigby, the secre-
 tary, followed the affirmatives, and, last of
 all, Mr. Malone himself; upon which it
 was declared, that the motion was carri-
 ed unanimously.

It is said, that Mr. Malone having been
 afterwards asked, how he came to make so
 extraordinary an assertion? he explained it
 by

by saying, that he had made a mistake, and unguardedly alluded to a provision in the law of the thirty-third of Henry the eighth, by which those who called the validity of that particular parliament in question were declared to be liable to the penalties of felony. The merit of this very able lawyer cannot be depreciated; and this anecdote only proves, that the greatest characters are liable to mistakes.

SECT.
II.

A. D.
1316, to
1560.

Before I conclude this chapter, it may not be amiss to take a short view of the former, and of the present, method of passing laws, and of holding parliaments in Ireland.

Before a parliament was held, it was expedient, antecedent to one thousand seven hundred and eighty-two, that the lord lieutenant and council should send over an important bill, as a reason for summoning that assembly. This always created violent disputes, and it was constantly rejected; as a money bill, which originated in the council,

S E C T.
II.

A. D.
1316, to
1560.

council, was contrary to a known maxim, that the commons hold the purse of the nation; and as all grants originate from them, since, in early times, they were used to consult with their constituents upon the mode, duration, and quantum of the supply.

Propositions for laws, or heads of bills, as they are called, originated indifferently in either house. After two readings and a committal, they were sent by the council to England, and were submitted, usually by the English privy council, to the attorney and solicitor general; and from thence they were returned to the council of Ireland, from whence they were sent to the commons, if they originated there, (if not, to the lords,) and after three readings they were sent up to the house of lords, where they went through the same stages; and then the lord lieutenant gave the royal assent in the same form which is observed in Great Britain.

In

In all these stages in England and Ire-
land, it is to be remembered, that any bill
was liable to be rejected, amended, or al-
tered; but that when they had passed the
great seal of England, no alteration could
be made by the Irish parliament.

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II.

A. D.
1316, to
1560.

At present, by the chief baron Yelver-
ton's law, it is not necessary for the council
to certify a bill under the great seal of Ire-
land, as a reason for summoning a parlia-
ment, but it is ordered to be convoked by
proclamation from the crown, as it is sum-
moned in England.

Touching bills, they now originate in
either house, and go from one to the other,
as they do in England; after which, they
are deposited in the lords' office, when the
clerk of the crown takes a copy of them,
and this parchment is attested to be a true
copy, by the great seal of Ireland on the
left side of the instrument. Thus they are
sent to England by the Irish council, and if
they are approved of by the king, this
transmits,

S E C T.
 II. } transmits, or copy, comes back with the
 A. D. great seal of England on the right side,
 1316, to with a commission to the lord lieutenant
 1560. to give the royal assent. All bills, except
 money bills, remain in the lords' office;
 but bills of supply are sent back to the
 house of commons to be presented by the
 speaker at the bar of the lords for the
 royal assent. Hence it is manifest, that no
 alteration can now be made in bills, except
 in parliament, as the record, or original
 roll, remains in the lords' office till it ob-
 tains the royal assent.

Of the rejection of bills, or not return-
 ing them from England, it is said there are
 very few instances of such a refusal by
 the crown since one thousand seven hundred
 and eighty-two; though, doubtless, the
 royal negative in both kingdoms, is as clear
 a privilege as any other prerogative.

Upon the proposal of this alteration in
 the form of passing laws by Mr. Yelverton,
 it was ably urged by Mr. Flood, one of the
 most

most eloquent and able members that Ireland has ever known, that the royal negative to an Irish bill should be given in the house of lords publicly by the lord lieutenant; but this proposition was rejected. The royal negative of "*le roi s'avisera*," I was informed by an officer of the house of lords in England, remarkable for his knowledge of forms, is accompanied with holding the bill down, and putting it under the table; a motion the reverse of that which takes place upon giving the royal assent. The last instance of the royal negative in the English parliament, was early in the reign of king William.

S E C T.

II.

A. D.

1316, to
1560.

Though public acts pass now in this satisfactory manner in Ireland, yet the expences upon private bills may be considered as a remnant of the former grievances of Poyning's law, for which provision has not been made; for, notwithstanding bills no longer pass through the councils of both kingdoms in the same manner as formerly, though their officers have no longer occa-
I I
sion

SECTION II.
 { A. D. 1316, to 1560. } sion to examine them, and consequently have no trouble from them, yet the same fees are exacted. Several proposals have been made for the abolition of this grievance, but they have unaccountably failed of success; particularly one in consequence of a petition from the principal solicitors in Dublin in one thousand seven hundred and eighty-three. This matter will sooner or later occupy the wisdom of parliament; and assuredly it will be an object well worthy of their consideration; nor can any colour of reason be given for those expences, groundless claims, and unnecessary fees, by which a private bill costs treble the sum in Ireland which is paid in England.

To conclude, the various alterations in the constitution, the mode of holding parliaments in Ireland, and of passing laws, may be thus shortly stated :

In early times, the lord lieutenant gave the royal assent, as the king does in England,

land, without any communication with him, or any particular licence.

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II.

A. D.
1316, to
1560.

In the reign of Henry the seventh, it was provided, that all the bills should be previously sent by the lord lieutenant and council to England, which were intended to be passed in any parliament, as a reason for holding the same.

The extreme inconvenience of this necessary preliminary caused two temporary suspensions of this law in the reign of his successor; and in the reign of Philip and Mary, propositions for laws, or heads of bills, might be transmitted from the council during the sitting of parliament.

The practice till one thousand seven hundred and eighty-two, grounded upon these two laws, was, that the council sent over a money bill every new parliament as a reason for its convention, and also such propositions as were made to them from the two houses while the legislature was sitting for acts of parliament.

But,

S E C T.

II.

A. D.
1316, to
1560.

But, in consequence of a law in the said year, no bill can now be transmitted from the council before the meeting of parliament. Bills at present pass in Ireland as they do in England, and the royal assent is given by the lord lieutenant, in consequence of a commission, similar to that which is passed when the king does not think it expedient to give the royal assent in person in England.

By a law of the twenty-ninth year of Henry the eighth, it was prescribed in England, that the king should sign those commissions for the royal assent with his own hand. This seems to have created doubts, that, in early times, it was not a regular practice to give the royal assent by proxy; but history places this law in its true light; it was a part of the act for the attainder of queen Catherine Howard. The parliament wished to save the feeling of their sovereign from a personal appearance upon such a catastrophe, and yet to have an authentic signature for such an extraordinary sentence of

of a king upon his royal consort. This seems to have been the true meaning of that act, though a different construction was put upon it by some member of the house of lords, in the late memorable proceedings upon the regency.

S E C T.
II.A. D.
1316, to
1560.

SECTION III.

Of the Sessions of Parliament in the Reign of Elizabeth,—of the Orders of the English Parliament, which were transcribed and adopted in the eleventh Session of her Reign, in Ireland.

SECT.
III.

A. D.
1560, to
1586.

THE first session of parliament which was held under queen Elizabeth, in the second year of her reign, was occupied entirely in the establishment of the government of the church; in repealing the papal system of her predecessor; and in vesting that supremacy which was claimed by the pope, in the queen: to these matters, the seven acts which were passed in that session, solely relate.

In the eleventh year of Elizabeth, four sessions of parliament were held; two in the twelfth, one in the thirteenth, another in the twenty-seventh, and the last in the

the twenty-eighth year of that reign. From this period, parliaments were not convened in Ireland, till the year one thousand six hundred and thirteen, the eleventh of king James the first.

SECT.
III.

A. D.
1560, to
1586.

Of the forty laws, which were passed during these last sessions, many of them relate to attainders of the rebels in Tyrone's rebellion; some were temporary laws, and others have been repealed. The most important of those which are in force, is that relative to the punishment of perjury, and another for the creation of free schools in every diocese; this last act was principally relied upon in one thousand seven hundred and eighty-seven, when Mr. Orde introduced his System of Education in the house of commons; to carry which into execution commissioners have been lately appointed.

The frequency of the sessions of parliament in the eleventh year of Elizabeth, and the preceding irregularity of those assemblies,

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III.

A. D.
1560, to
1586.

blies, gave rise to the adoption of the orders which obtained at that time in the English parliament: they were presented by Mr. Hooker, member for Athenry in Ireland, and for Tiverton in Devonshire, who has given us an account of their proceedings; they are copied here, as the subsequent parliamentary orders which are now in force appear to have been modelled from them, and as they are a valuable monument of the method of proceedings in the English parliament in the reign of Elizabeth.

Mr. Hooker's Account of the Method of Proceeding in the Parliament which was held by Sir Henry Sidney, in the eleventh Year of Elizabeth, is as follows :

THE lord deputy, after a journey, returned to Dublin, and there, when, by the advice of the council, he had disposed of all things in good order, concerning the government, he caused the writs for summons

mons of the parliament, to be awarded to every nobleman for his appearance ; and to every sheriff, for choosing of knights and burgeses, for their like appearance at Dublin the seventeenth of January, in the eleventh year of her majesty's reign, at which time and day, appearance was then and there made accordingly. On the first day of which parliament, the lord deputy, representing her majesty's person, was conducted and attended in a most honourable manner unto Christ's church, and from thence unto the parliament house ; where he sat under the cloth of estate, being apparelled in princely robes of crimson velvet, doubled or lined with ermine. And then and there, the lord chancellor made a very eloquent oration, declaring what the law was ; of what great effect and value ; how the common society of men was thereby maintained, and each man in his degree conserved ; as well the inferior as the superior, the subject as the prince ; and how careful all good commonwealths, in the elder ages, have been in this respect ; which, con-

S E C T.

III.

A. D.

1560, to
1586.

S E C T.
 III. fidering the time, ftate, and neceffity of the
A. D. 1560, to 1586. commonwealth, did from time to time or-
dain and eftablifh moft wholefome laws,
either of their devices, or drawn from fome
other good commonwealth ; and by thefe
means have prospered and continued.

And likewise, how the queen's most ex-
 cellent majesty, as a most natural mother
 over her children, and as a most vigilant
 prince over her subjects, hath been always,
 and now presently is, very careful, studious,
 and diligent in this behalf: having caused
 this present parliament to be assembled, and
 by the counsel and advice of you her no-
 bility, and you her knights and burgesſes,
 ſuch good laws, orders, and ordinances may
 be decreed, as may be to the honour of Al-
 mighty God, the preſervation of her ma-
 jeſty, and of her imperial crown of this
 realm ; for which they were not only to be
 moſt thankful, but alſo moſt careful to do
 their duties in this behalf. And then the
 lord chancellor directed his ſpeech to the
 knights and burgesſes, who were there in
 behalf

behalf of the whole commons of the realm; willed them that, for the avoiding of confusion, and for an orderly proceeding in this action, they should assemble themselves at, and in the house appointed for that assembly; and there to make choice of some wise and sufficient man to be their mouth and speaker. And then concluding with an exhortation of obedience and dutifulness, he ended, and the court adjourned until Thursday next, the twentieth of January. In the mean time, the knights and burgessees met in the lower house, and appointed for their speaker Mr. Stanihurst, recorder of the city of Dublin, a very grave, wise, and learned man; who, upon Thursday aforesaid, was presented to the lord deputy, and to the lords of the higher house: and then, he having done most humbly his obedience and duty, made his oration and speech; first abasing himself, as being not a man sufficiently adorned and furnished with such gifts of knowledge and learning, as to such an office and calling doth appertain; wherein he was so much the more unfit, as the cause

S E C T.
III.A. D.
1560, to
1586.

S E C T. he had in hand was of great weight and im-
 III.
 { A. D. importance: and therefore he wished, if it
 1560, to might so seem good to his lordship, some
 1586. man of more gravity, and of better ex-
 perience, knowledge, and learning, might
 supply the place. Nevertheless, for so much
 as he might not refuse it, he was the more
 willing, because he did well hope, his service
 being done with his best good will, and in
 all dutifulness, it would be accepted. And
 again, his comfort was the more, because he
 had to deal in such a cause, as was for the
 establishing of some good and wholesome
 laws, whereof he was a professor.

And hereupon he took an occasion, ac-
 cording to the argument that was before
 handled by the lord chancellor the speaker
 in the higher house, to discourse of the na-
 ture and good effect of laws; and what
 success there ensueth to all such realms,
 countries, and commonwealths, as by laws
 are well ruled and governed. And when
 he had spoken at large hereof, there he de-
 clared what great causes that realm of Ire-
 land

land had, to give for ever most hearty thanks and praises to God for his goodness, in sending such a virtuous, noble, and most godly princeſs, as was her majeſty ; who not only was careful, by the ſword, to ſtand in their defence againſt all enemies, traitors, and rebels, in times of wars and rebellions ; but alſo for their conſervation in times of peace, would have ſuch laws, ſtatutes, and ordinances, to be made in a parliament of themſelves, as ſhould be moſt expedient for the commonwealth of the ſame land. When he had at large diſcourſed of this matter, then he concluded with an humble petition, that it might pleaſe her majeſty to grant unto them their liberties and freedoms of old, belonging to every aſſembly of a parliament. The firſt was, that every man being a member of the lower houſe, ſhould have free coming and going, to and from the parliament, and during their abode at the ſame ; without moleſtation or impeachment of any perſon or perſons, or for any matter then to be laid againſt any of them. The ſecond, that they and every of them might

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1560, to
1586.

might have liberty to speak their words freely to any bill to be read, and matter to be proposed, in that parliament. Thirdly, that if any of the said house should misbehave himself in any indecent manner, or if any other person should evil intreat or abuse any of the said house, that the correction and punishment of every such offender should rest and remain in the order of the said house. When he had ended his speech, and in most humble manner done his obeisance, the lord deputy, having paused upon the matter, made answer to every particular point, in a most elegant and effectual manner, which consisted in these points: nothing misliking with the speaker for so much abasing of himself, because he knew him to be both grave, wise, and learned, and very sufficient for that place; doubting nothing but that he would perform the same in all dutifulness, as to him appertaineth. And the benefit which groweth to all nations and commonwealths by the use of the laws, besides, that daily experience did confirm the same generally, so
no

no one nation particularly could better
 avouch it than this realm of Ireland; and
 therefore he did well hope that they would
 accordingly frame themselves to live ac-
 cordingly, and also to pray for her majesty's
 safety and long life, whereby, under God,
 they might enjoy a peaceable and quiet life
 in all prosperity. And concerning the pri-
 vileges which they requested to be allowed,
 forsomuch as the same at the first were
 granted, to the end that they might the
 better and more quietly serve her highness
 in that assembly, to her honour and to the
 benefit of the commonwealth, it pleased her
 majesty, so long as she were not impeached,
 nor her imperial state derogated, that they
 should enjoy the same. And so, after a long
 time spent in this oration, the court was ad-
 journed.

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 1586.

The next day, being Friday, the lower
 house met; and, contrary to the order of
 that house, and duty of that company, in-
 stead of unity, there began a division; and
 for concord, discord was received: for all,
 or

S E C T. or the most part of, the knights and
 III. burgesſes of the English pale, eſpecially
 A. D. they who dwelled within the counties of
 1560, to Meath and Dublin, who, ſeeing a great
 1586. number of Englishmen to have a place in
 that houſe, began to except againſt that
 aſſembly, as not good, nor warranted by
 law. Their *avantparleur* was ſir Chriſto-
 pher Barnwell knight, who being ſome-
 what learned, his credit was ſo much the
 more, and by them thought moſt meeteſt
 and worthy to have been the ſpeaker for
 that houſe. And he being the ſpokeſman,
 alleged three ſpecial cauſes, why he and
 his accomplices would not yield their con-
 ſents. The firſt was, becauſe that there
 were certain burgesſes returned for fundry
 towns which were not corporate, and had
 no voice in the parliament. The ſecond
 was, that certain ſheriffs, and certain
 mayors of towns corporate, had returned
 themſelves. The third and chiefeſt was,
 that a number of Englishmen were re-
 turned to be burgesſes of towns and corpo-
 rations which ſome of them never knew,
 and

and none at all were resident and dwelling in the same, as by the law is required *.

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These matters were questioned among themselves in the lower house for four days together without agreement; but the more words, the more choler; and the more speeches, the greater broils; until in the end, for appeasing the matter, the same was referred to the lord deputy and judges of the realm: unto whom the speaker was sent to declare the whole matter, and to know their resolutions. And they, having at large discoursed and conferred of this matter, returned their answer: that concerning the first and second exceptions, that the burgessees returned for towns not corporate, and such sheriffs, mayors, and soveraigns as have returned themselves, shall be dismissed out of the same; but as for such others as the sheriffs and mayors had returned, they should remain, and the

* This was the old law in both kingdoms, that every member of the house of commons should be a resident in the place he represented. *Vide* Irish Statutes, 18. Ed. IV. chap. 2.

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penalty to rest upon the sheriffs for their wrong returns. The messenger of this answer, however he were liked, his message could not be received nor allowed; which being advertised to the lord deputy and the judges, then Lucas Dillon, her majesty's attorney general, was sent unto them to ratify and confirm their resolutions; and yet could not be credited, neither would they be satisfied, unless the judges themselves would come in person, and set down this to be their resolutions. Upon this answer, the speaker commanded a bill to be read; but the aforesaid persons would not suffer nor abide the reading thereof, but rose up in a very disordered manner, far differing from their duties in that place, and as contrary to that gravity and wisdom which was or should be in them. Wherefore, for pacifying of the same, the chief justice of the queen's bench, and the chief justice of the common pleas, the queen's serjeant, attorney general, and solicitor, the next day following, came to the lower house, and there did affirm their former resolu-

resolutions, and thought it might have sufficed; yet certain lawyers, who had place in that house, did not altogether like thereof.

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And albeit this matter were orderly compassed, and sufficient to have contented every man, yet the same was so stomached, that the placing of the Englishmen to be knights and burgessees could not be digested, as did appear in the sequel of that assembly, where every bill, furthered by the English gentlemen, was stopped and hindered by them. And especially by sir Edmund Butler, who, in all things which tended to the queen's majesty's profit or commonwealth, was a principal against it; fearing, that their captainries should be taken away, and coin and livery abolished, and such other like disorders redressed, which he and his accomplices misliking, it did open itself in a rebellion then brewing, and which indeed followed; for, immediately after the parliament, he returned home with a discontented mind, and gathered his forces and

S E C T. and followed his designs. But to the pur-
 III.
 } pose:

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There were two bills introduced of moment and great consequence. The one was concerning the repeal of an act for that sessions only, made in the time of sir Edward Poynings, lord deputy, in the tenth year of king Henry the seventh, which, though it were meant most for their own benefit and for the commonweal of that realm, yet so jealous they were, that they would not, for a long time, enter into the consideration thereof. The other was for the granting of the impost for wines, then first read. And in this matter they shewed themselves very froward; and so unequal, that it was more like a bear-baiting of disordered persons, than a parliament of grave and wise men. Wherewith, a certain English gentleman, (the writer hereof,) being a burgess of the town of Athenry in Connaught, who had before kept silence, and still meant to have done, when he saw these foul disorders and overthwarting, being grieved, stood

stood up, and prayed liberty to speak to the bill, who made a preamble, saying, that it was an usage in Pythagoras's schools, that no scholars of his should, for certain years, reason, dispute, or determine, but give ear and keep silence; meaning, that when a man is once well instructed, learned, and advised, and hath well deliberated of the things he hath to do, he should, with more discretion and wisdom, speak, order, and direct the same; notwithstanding he, being but a man of small experience, and of less knowledge in matters of importance, and therefore once minded to be altogether silent, is enforced even of a very zeal and conscience, and, for the discharge of his duty, to pray their patience, and to bear with his speeches. And then upon occasion of the bill read, and matter offered, he entered into the discourse what was the office and authority of a prince, and what was the duty of a subject; and lastly, how the queen's majesty had most honourably and carefully performed the one, and how undutifully they had considered the other:

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S E C T. ^{III.} for, that she neither found that obedience
III. in that land, which still lived in rebellion
A. D. against her; neither that benevolence of the
1560, to better sort, which, for her great expences
1586. spent for their defences and safeties, they
ought to have yielded unto her; as appeared
manifest in fundry things, and especially
in this present assembly; namely, in one
bill, concerning the repeal of Poynings' act,
for this time only, meant for your own
benefit, and for the commonwealth of this
realm; and the other, concerning the bill
now in question: the one by you denied,
and the other liketh you not. And yet
her majesty, of her own royal authority,
might and may establish the same without
any of your consents, as she hath already
done the like in England; saving of her
courtesy it pleased her to have it pass with
your own consents by order of law, that
she might thereby have the better trial and
assurance of your dutifulness and good will
towards her. But as she hath and doth
find you bent far otherwise, so doth the
right honourable the lord deputy find the
like:

like : for, notwithstanding his long services in times past, his continual and daily travel, journeys, and hostings, with the great peril of his life against the rebels for your sake and safety, and his endless turmoils and troubles in civil matters and private suits for your quietness, and to you well known, he hath deserved more than well at your hands ; yet, as the unthankful Israelites against Moses, the unkind Romans against Camillus, Scipio, and others, and as the ungrateful Athenians against Socrates, Themistocles, Miltiades, and others, you have and do most ungratefully requite and recompence this your noble governor, against whom and his doings you do kick and spurn what in you lieth. But in the end it will fall upon you, as it hath done unto others, to your own shame, overthrow, and confusion ; and when he had spent a long time in this, and proved the same by sundry histories of other nations, he proceeded to the bill, which, by sundry reasons and arguments, he proved to be most necessary, and meet to be liked, allowed, and consented unto.

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Now, when he had thus ended his speeches, he sat down, the most part of the house very well liking and allowing both of the person and the matter; saving the person before named, who did not hear the same attentively: so they did digest it most unquietly, supposing themselves to be touched herein. And therefore some one of them rose up, and would have answered the party, but the time and day was so far spent above the ordinary hour, being well near *two of the clock* in the afternoon, that the speaker and the court rose up and departed. Howbeit, such was the present murmurings and threatenings breathed out, that the said gentleman, for his safety, was by some of the best of that assembly conducted to the house of sir Peter Carew, where the said gentleman then lay and resided. The lord deputy in the mean time, hearing that the lower house were so close, and continued together so long above the ordinary time, he doubted that it had been concerning the questions before proposed, and therefore

fore did secretly fend to the house to learn and know the cause of their long sitting. But, by commandment of the speaker, order was given to the door-keepers, that the doors should be close kept, and none to be suffered to come in or out, so long as the gentleman was in delivery of his speeches; and after the court was ended, it was advertised to the said lord deputy, who thanked God that he had raised up unknown friends unto him in that place.

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The next day following being Friday, as soon as the court of the lower house sat, sir Christopher Barnwell, and the lawyers of the English pale, who had conferred together of the former day's speeches, stood up, and desired hearing; who, leaving the matter in question, did, in a most disorderly manner, inveigh against the said gentleman; affirming, avouching, and protesting, that, if the words spoken had been spoken in any other place than in the said house, they would rather have died than have born withal. Whereupon the

G 3

speaker,

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speaker, by consent of the residue of the house, commanded them to silence, and willed, that if they had any matter against the said gentleman, they should present and bring it in writing, against Monday then next following, and forsomuch as their dealings then were altogether disordered, being more like to a bear-baiting of loose persons, than an assembly of grave and wise men in parliament, motion and request was made to the speaker, that he should reform those abuses and disordered behaviours; who not only promised to do, but also prayed assistance, advice, and counsel, for his doings therein, as such as were acquainted with the orders of the parliaments in England: which was promised unto him and performed; and also promised that a book of the orders of the parliaments used in England should in time be set forth in print, which the said gentleman did*, and presented and bestowed the same among them, in form following:

* The gentleman who spoke as above, was Mr. Hooker; who has given this narrative.

By

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*By whom, and for what Cause, a Parliament
ought to be summoned and called.*

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THE king, who is God's anointed, being the head and chief of the whole realm, and upon whom the government and estates thereof do wholly and only depend, hath the power and authority to call and assemble his parliament, and therein to seek and ask the advice, counsel, and assistance of his whole realm; and without this his authority, no parliament can properly be summoned or assembled. And the king having this authority, ought not to summon his parliament but for weighty and great causes, and in which he of necessity ought to have the advice and counsel of all the estates of his realm, which be these and such like, and such like as followeth:

First, for religion; forsomuch as by the laws of God and this realm, the king, next and immediately under God, is his deputy

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and vicar on earth, and the chieftest ruler within his realms and dominions: his office, function, and duty is, above all things, to seek and see that God be honoured in his true religion and virtue, and that he and his people do, both in profession and life, live according to the same.

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Also, that all idolatries, false religions, heresies, schisms, errors, superstition, and whatsoever is contrary to true religion, all disorders and abuses, either among the clergy or laity, be reformed, ordered, and redressed.

Also, the assurance of the king's and queen's persons, and of their children, their advancement and preferment in marriages, the establishing of succession, the suppression of traitors, the avoiding or eschewing of wars, the attempting or moving of wars, the subduing of rebels, and pacifying of civil wars and commotions, the levying or having any aid or subsidy for the preservation of the king and public estate: also
the

the making and establishing of good and wholesome laws, or the repealing or debar-
ring of former laws, whose execution may
be hurtful or prejudicial to the estates of the
prince or commonwealth.

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For these and such like causes, being of great weight, charge, and importance, the king (by the advice of his council) may call and summon his high court of parliament, and by the authority thereof establish and order such good laws and orders as then shall be thought most expedient and necessary.

*The Order and Manner how to summon the
Parliament.*

THE king ought to send out his writs of summons, to all the estates of his realm, at least forty days before the beginning of the parliament; first to all his lords and barons; that is, to wit, archbishops, bishops, dukes, marquesses, earls, viscounts, and barons, and
every

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every of these must have a special writ. Then to the clergy, and the writ of their summons must be addressed to every particular bishop for the clergy of his diocess. All these writs which are for the clergy, the king always sendeth to the archbishops of Canterbury and York, and by them they are sent and dispersed abroad to every particular bishop within their severall provinces, and so the bishops give summons to the clergy.

Lastly, for the summoning of the commons, he sendeth his writs to the lord warden of the five ports, for the election of the barons thereof, and to every sheriff, for the choice and election of knights, citizens, and burgessees, within his county.

*How and what Persons ought to be chosen
for the Clergy, and of their Allowances.*

THE bishop ought, upon receipt of the writ, sent unto him for the summoning of his

his clergy, forthwith to summon and warn all deans and archdeacons within his diocese to appear in proper person at the parliament, unless they have some sufficient and reasonable cause of absence; in which case he may appear by his proctor, having a warrant or proxy for the same.

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Then must he also send the like summons to the dean and chapter of his cathedral church; who shall forthwith assemble their chapter, and make choice of some one of themselves to appear in their behalf, and this man thus chosen must have their commission or proxy.

He must also send out his summons to every archdeaconry, and peculiar, requiring that the whole clergy do appear before him, his chancellor or officer, at a certain day, time, and place; who being so assembled, shall make choice and election of two men of the said clergy to appear for them, and these shall have their commission or proxy for the same.

These

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These proctors thus to be chosen, ought to be wise, grave, and learned men, being professors either of divinity or of the ecclesiastical laws, and that can, will, and be able to dispute in cause of controversy, convincing of heresies, appeasing of schisms, and devising of good and godly institutions, concerning true religion and orders of the church.

These proctors (thus elected) ought to have reasonable allowances for their charges, according to the state, quality, or condition of the person, as also a respect had to time. The proctors of the dean and chapter are to be paid out of the exchequer of the cathedral church. The proctors of the clergy, are to be paid by the clergy, among whom a collection is to be levied for the same, according to an old order used among them.

How

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How and what Manner of Knights, Citizens, and Burgesſes, ought to be choſen, and of their Allowances.

THE ſheriff of every county having received his writs, ought forthwith to ſend his precepts and ſummons to the mayors, bailiffs, and head officers of every city, town corporate, borough, and ſuch places as have been accuſtomed to ſend burgeſſes within his county, that they do chooſe and elect among themſelves, two citizens for every city, and two burgeſſes for every borough, according to their old cuſtom and uſage. And theſe head officers ought then to aſſemble themſelves, and the aldermen and common council of every city or town, and to make choice among themſelves, of two able and ſufficient men of every city or town, to ſerve for and in the ſaid parliament.

Likewiſe, at the next county day to be holden in the ſaid county after the receipt of

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of this writ, the sheriff ought openly in the court of his shire or county, between the hours of eight and nine of the forenoon, to make proclamation, that every freeholder shall come into the court, and choose two sufficient men to be knights for the parliament; and then he must cause the writ to be openly and distinctly read. Whereupon the said freeholders, then and there present, ought to choose two knights accordingly; but he himself cannot give any voice, neither be chosen.

These elections aforesaid so past and done, there ought to be several indentures made between the sheriff and the freeholders of the choice of the knights, and between the mayor and the head officers of every particular city and town, of the choice of their citizens and burgessees, of their names, and of their mainperners and sureties. Of these indentures, the one part being sealed by the sheriff, ought to be returned by the clerk of the parliament; and the other part of the indentures, sealed by

by such as made choice of the knights, and
 such as made choice of the citizens and
 burgesſes, under the ſeveral common ſeals
 of their cities and towns, ought to remain
 with the ſheriff, or rather with the parties
 ſo elected and choſen.

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The charges of every knight and citizen
 were wont to be alike; which was thirteen
 ſhillings and fourpence by the day: but
 now, by the ſtatute, it is but ten ſhillings
 to every citizen; and to every burgeſs the old
 uſage was to have five ſhillings; but now it
 is but three ſhillings and fourpence limited
 by the ſtatute; which allowance is to be
 given from the firſt day of their journey
 towards the parliament, until the laſt day
 of their return from thence. Provided,
 That every ſuch perſon ſhall be allowed
 for ſo many days as by journeying ſix and
 twenty miles every day in the winter, and
 thirty miles in the ſummer, he may come
 and return to and from the parliament.

In

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In choice of these knights, citizens, and burgesſes, good regard is to be had that the laws and customs of the realm be herein kept and observed; for none ought to be chosen, unless he be resiant and dwelling within the shire, city, or town, for which he is chosen. And he ought to be grave, wise, learned, skilful, and of great experience in causes of policy; and of such audacity, as both can and will boldly utter and speak his mind according to duty, and as occasion shall serve: for, no man ought to be silent or dumb in that house; but, according to his talent, he must and ought to speak in the furtherance of the interests of the king and commonwealth.

And the knights also ought to be skilful in martial affairs, and therefore the words of the writs are, that such should be chosen for knights as be *cincti gladio*; not because they shall come into the parliament house in armour, or with their swords, but because they should be such as have good experience and knowledge in feats of war
and

and martial affairs, whereby they may, in such cases, give the king and realm good advice and counsel. Likewise, they ought to be *laymen*, and of good fame, honesty, and credit, being not out-lawed, excommunicated, or perjured, or otherwise infamous; for, such persons ought not to have place, or be admitted into the parliament-house.

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The Degrees of the Parliament.

IN times past there were six degrees or estates of the parliament, of which, every one of them had their several officers and ministers of attendance; but now the same are reduced into four degrees:

The first, is the king; who, in his personage, is a full and whole degree of himself, and without whom nothing can be done.

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1586.

The third, is of knights, citizens, and burgesſes; and theſe are called by the name of the Commonalty.

The fourth, is of the clergy, which are called by the name of the Convocation; and theſe perſons have no voice in the parliament, neither can they do any thing elſe than to intreat in cauſes of religion, which from them is to be commended to the other eſtates.

Of the Places and Houſes of the Parliament.

AS it lieth in the king to aſſign and appoint the time when the parliament ſhall begin, ſo that he give at the leaſt forty days ſummons; ſo likewiſe he may name and appoint the place where it ſhall be kept. But whereſoever it be kept, the old uſage and manner was, that all the whole degrees of the parliament ſat together in one houſe; and every man that had there to ſpeak, did it openly before the king and his whole parliament.

parliament. But hereof did grow many inconveniencies, and therefore, to avoid great confusions, which are in such great assemblies, as also to cut off the occasions of displeasures which oftentimes did happen, when a mean man speaking his conscience freely, either could not be heard, or fell into the displeasure of his betters; and for fundry other great griefs; they did divide this one house into three houses, that is to wit, the higher house, the lower house, and the convocation house.

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In the first, sitteth the king and his lords spiritual and temporal, called by the name of Barons; and this house is called the Higher House.

The second, is where the knights, citizens, and burgessees do sit; and they are called by the name of Commons: and this house is called the Lower House.

The third, is where the prelates and the proctors of the clergy do sit, being called by

S E C T. the name of the Clergy; and this house is
 III. called the Convocation House. Of every
 { of these houses, their orders and officers,
 A. D. we will briefly subjoin and declare par-
 1560, to ticularly, in order as followeth:
 1586.

Of the Higher House.

THE Higher House (as it is called) is
 where the king and his barons do sit in
 parliament, where the king sitteth highest, and
 the lords and barons beneath him, each man
 in his degree; the order is this: The house
 is much more in length than in breadth;
 in the higher end thereof, in the middle, is
 the king's seat or throne, hanged richly with
 a cloth of estate; and there the king sitteth
 always alone. On his right hand, there is
 a long bench, next to the wall of the house,
 which reacheth not so far up as the king's
 seat, and upon this sit the archbishops and
 bishops, every one in his degree. On his
 left

left hand, are two like benches*; upon the inner side sit the dukes, marquisses, earls, and viscounts: on the other, which is the hindermost, and next to the wall, sit all the barons, every man in his degree. In the middle of the house, between the archbishops' seat and the dukes' seat, sitteth the speaker, who commonly is lord chancellor, or keeper of the great seal of England, or lord chief justice of England; as pleaseth the king, who doth appoint him: and he hath before him two clerks, sitting at a table before them, upon which they do write and lay their books. In the middle room beneath them, sit the chief justices and judges of the realm, the barons of the exchequer, the king's serjeants, and all such as be of

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* This division of the house of lords into equal parts for the spiritual and temporal peers, probably took its rise from the number of the former before the Reformation; as it appears from the lists of the peers in daily attendance, that the mitred abbots sat with the bishops, and that the spiritual were often equal to, and sometimes more numerous than, the temporal lords who are noted in the Journals of the lords of England in the reign of Henry the eighth.

SECT. III. the king's learned counsel, either in the
 common laws of the realm, or of the eccle-
 siastical laws; and all these sit upon great
 wool-facks, covered with red cloth.

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At the lower end of all these seats, is a bar or rail, between which and the lower end of the house is a void room serving for the lower house, and for all suitors that shall have cause and occasion to repair to the king or the lords. This house, as it is distinct from the others, so there be distinct officers to the same, belonging and appertaining thereto, all which are assigned and appointed by the king, and all have allowances for their charges at the king's hands; of which officers what they are, what is every of their offices, and what allowances they have, shall be written in order hereafter:

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*Of the Officers of the Higher House; and,
first, of the Speaker, and of his Office.*

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THE chiefest officer of the Higher House is the Speaker, who is appointed by the king, and commonly he is the lord chancellor or keeper of the great seal, or lord chief justice of England: His office consisteth in divers points:

First, he must on the first day of the parliament make his oration in the higher house, before the king, his lords, and commons; and then and there declare the cause why the king hath summoned that parliament, exhorting and advising every man to do his office and duty, in such sort as may be to the glory of God, honour of the king, and benefit of the commonwealth.

Also, he must make one other oration, but in way of answer to the speaker's oration, when he is presented to the king.

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Likewise, he must make the like on the last day of parliament. And you shall understand, that upon these three days he standeth on the right hand of the king near to his seat, at a box there appointed for him; but at all other times he sitteth in the middle of the house, as is before said.

When he hath ended his oration upon the first day, he must give order unto the lower house in the king's behalf, willing them to repair unto their house, and there (according to their antient orders and customs) to make choice of their speaker.

All bills presented unto the higher house he must receive, which he hath forthwith to deliver unto the clerks to be safely kept.

All bills he must cause to be read twice before they be engrossed, and being read three times, he must put the same to question.

If

If any bill put to question, do pass with
 their consent, then the same must be sent
 to the lower house, unless it came first
 from thence, and in that case it must be
 kept until the end of the parliament.

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If any bill be denied, impugned, and
 clear overthrown; the same is no more
 to be thenceforth received during that
 session.

If any bill be put to the question, and it
 be doubtful which side is the greater and
 giveth most voices; then he must cause
 the house to be divided, and then judge of
 the bill according to the number*.

If any bill be imperfect, or requireth
 to be amended, he must choose a certain
 number of that house as he shall think

* There is no casting vote in the house of lords in
 either kingdom, and the general rule was established
 in the Journals of the lords of England about this
 period; that, in all cases of equality of voices, *semper*
presumitur pro negante.

good,

S E C T. good, and to them commit that bill to be
 III. reformed and amended *.

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 1586.

If any bill or message be sent to the lower house, it is his office to make choice of two of the king's learned counsel there present, to be the messengers thereof.

If any bill or message be sent from the lower house, he must come from his place to the bar, and there receive the same;

* In the Journals of the lords of England, from the first year of Henry the eighth to this period, it is observable, that bills were not committed as a matter of course as they are at present, but were committed for amendment only. It was the ancient rule, that a lord could not speak against the principle of a bill in a committee; and upon this ground a doctrine has been laid down, that it is irregular to negative a bill in a committee, to which it was consigned in ancient times only for the purpose of amendment. And from this principle also, it is probable, the rules were derived, that proxies are not to be used in a committee, and that the House shall be put into a committee when any lord shall desire it; which, probably, was, in early times, upon a suggestion only, that a bill required to be amended.

and

and being returned to his place, and every stranger or messenger departed, he must disclose the same to the lords.

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A. D.
1560, to
1586.

Item, if any disorder be committed or done in the house, by any lord or other person, he ought, with the advice of the lords, to reform the same: but if it be among the lords, and they will not be reformed, then he must forthwith advertise the king.

Item, he ought, at the beginning of the parliament, to call by name all the lords of the parliament, and likewise at other times as he seeth occasion, whose defaults ought to be recorded, and that they do pay their fines unless they be dispensed withal by special licence from the king, or have some just or reasonable cause of absence.

Item, he must see and cause the clerks to make true entries, and true records of all things done there, and to see that the clerks do give and deliver the copies of all such bills

SECT. bills there read, to such as demand for the
 III. fame.

A. D.
 1560, to
 1586.

Item, he shall keep the secrets, and cause and command every man of each degree in that house to do the like.

Also, he ought not to go any where, but the gentleman serjeant ought to attend upon him, going before him with his mace ; unless he be the lord chancellor, for then he hath a serjeant of his own.

His allowance that he hath, is at the king's charges.

Also, for every private bill that passeth and is enacted, he hath ten pounds for his part.

Of the Register of the Higher House.

THE register is the principal clerk of the higher house, and his charge is safely to keep the records of the parliament and the acts which be passed.

All

All such statutes as be enacted, he must send to the king's several courts of record to be enrolled; namely, the chancery, the king's bench, the common pleas, and the exchequer.

S E C T.
III.

A. D.
1560, to
1586.

All such acts as are to be imprinted, he must send to the printer.

All such private acts as are not imprinted, if any man will have the same exemplified, he must transmit the same to the lord chancellor, to be engrossed and sealed; and, for the same, he is to take the fees appointed and accustomed.

He hath for his allowance an ordinary fee for term of life of the king.

Of the Clerks of the Parliament.

THERE be two clerks; the one named the Clerk of the Parliament, and the other named the Clerk of the Crown.

The Clerk of the Parliament. His office is to sit before the lords' speaker, and to read such bills presented as he shall be commanded.

He

S E C T.

III.

A. D.

1560, to

1586.

He must keep true records, and true entries of all things there done, and to be entered.

If any person require a copy of any bill there, he ought to give the same, receiving his ordinary fees.

If any bill, after its ordinary readings, be to be engrossed, he must do it.

The counfel of the house he may not disclose.

At the end of the parliament he must deliver up unto the chancellor all the acts and records of that house, saving he may keep a transcript and a copy thereof to himself.

He hath his allowance of the king.

Also for every private bill which is enacted, he hath three pounds.

Also for every bill, whereof he giveth a copy; he hath for every ten lines a penny, according to the custom.

The Clerk of the Crown. His office is to supply the place and room of the clerk of the parliament in his absence, and he hath in all things the like charges and profits as the clerk ought to have.

S E C T.
III.

A. D.
1560, to
1586.

He must give his attendance to the higher house from time to time, and do what shall be enjoined him.

All such private acts as be not imprinted, if any man will have them exemplified under the broad seal, he must exemplify, and have for the same his ordinary fees.

These two clerks, at the end of the parliament, ought to be present in the house, and within the lower bar at a board before them, their faces towards the king; and there the one must read the bills which are past both houses, and the other must read the consent or disagreement of the king.

Of the Serjeants or Porters of the Higher House.

THERE is but one serjeant which hath the charge and keeping of the doors; for
though

SECT. though there be divers doors, yet the
 III. keepers thereof are at his assignment.

A. D.

1560, to
 1586.

He ought to see that the house be kept
 clean and sweet.

He ought not to suffer any manner of
 person to be within the house, so long as
 the lords be there sitting, other than such
 as be of the learned counsel, and of that
 house; and except all such as come of a
 message from the lower house with bills or
 otherwise, and except all such as be sent
 for, and be admitted to have any thing
 there to do.

Also, he must attend and go always
 with his mace before the speaker, unless
 he be lord chancellor, or keeper of the
 great seal; for then he hath a serjeant of
 his own.

He ought to keep safely such prisoners as
 be committed to his ward, and fetch or
 send for such as he shall be commanded to
 fetch.

This

This porter or serjeant hath (besides his ordinary fee) a standing allowance for every day of the parliament.

SECT.
III.

A. D.
1560, to
1586.

Also he hath, for every private bill which is enacted, forty shillings.

Also he hath, for every prisoner committed to his ward, a certain allowance for his fee.

Also he hath of every baron, or lord of that house, a certain reward.

Of the Lower House.

THE Lower House (as it is called) is a place distinct from the others; it is more of length than of breadth; it is made like a theatre, having four rows of seats one above another round about the same. At the higher end, in the middle of the lower row, is a seat made for the Speaker, in which he always sitteth; before it is a table

S E C T. board ; at which sitteth the clerk of the
 III. house, and thereupon layeth his books, and
 A. D. writeth his records. Upon the *lower row*,
 1560, to *on both sides the speaker*, sit such personages
 1586. as be of the king's privy counsell, or of his
 chief officers ; but as for any other, none
 claimeth nor can claim any place, but
 sitteth as he cometh, saving that on the
 right hand of the speaker, next beneath
 the said counsell, *the Londoners* and the
 citizens of *York* do sit, and so in order
 should sit all the citizens accordingly ; with-
 out this house is one other, in which the
 under clerks do sit, as also such as be suitors
 and attendant to that house. And whenso-
 ever the house is divided upon any bill,
 then the room is voided, and the one part
 of the house cometh down into this place
 to be numbered.

The Office of the Speaker of the Lower House.

THE chief or principal officer of this house is the Speaker, and is chosen by the whole

whole house, or the more part of them; he himself being one of the same number, and a man for gravity, wisdom, experience, and learning, chosen to supply that office during the time of the parliament, and is to be presented to the king the third day following.

SECT.
III.
A. D.
1560, to
1586.

His office is to direct and guide that house in good order, and to see the ordinances, usages, and customs of the same, to be firmly kept and observed.

When he is presented unto the king, sitting in his estate royal in the parliament house for that purpose, he must then and there make his oration in commendation of the laws and of the parliament; which done, then he hath (in the name of the house of commons) to make to the king three requests:

First, That it may please his majesty to grant, that the commons, assembled in parliament, may have and enjoy their ancient privileges, customs, and liberties, as in times

S E C T. III. ^{III.} past have appertained, and been used in that house.

A. D.
1560, to
1586.

Then, that every one of that house may have liberty of speech, and freely to utter, speak, and declare his mind and opinion, to any bill or question to be proposed.

Also, That every knight, citizen, and burghers, and their servants, may have free coming and going to and from the said parliament; as also during the time of parliament; and that they, nor any of their servants or retinue, be not arrested, molested, sued, imprisoned, or troubled by any person or persons.

And lastly, That if he, or any other of that company, being sent or come to him of any message, and do mistake himself in doing thereof, that his majesty will not take the advantage thereof, but graciously pardon the same.

He must have good regard, and see that the clerk do enter and make true records,
and

and safely keep the same, and all such bills as be delivered into that house.

S E C T.
III.

A. D.

1560, to

1586.

He must, on the first and third day, and whensoever he else will, call the house by name, and record their defaults.

All bills to be brought and to be presented unto that house, he must receive and deliver unto the clerk.

He ought to cause and command the clerk to read the bills brought in plainly and sensibly; which done, he must briefly recite and repeat the effect and meaning thereof.

Of the bills brought in, he hath choice which and when they shall be read, unless order be taken by the whole house in that behalf.

Every bill must have three readings, and, after the second reading, he must cause the clerk to engross the same, except the same be rejected and dashed.

S.E.C.T.

III.

A. D.
1560, to
1586.

If any bill or message be sent from the lords, he ought to cause the messenger to bring the same unto him, and he to receive the same openly; and they being departed and gone, he ought to disclose and open the same to the house.

If, when a bill is read, divers do rise at one instant to speak to the same, and it cannot be discerned who rose first, then shall he appoint who shall speak; nevertheless, every one shall have his course to speak if he list.

If any speak to a bill, and he be out of the matter, he shall put him in remembrance, and will him to come to the matter.

If any bill be read three times, and every man have spoken his mind, then shall he ask the house whether the bill shall pass or not, saying thus: "As many as will have this bill pass in manner and form as hath been read, say Yea;" then
the

the affirmative part say, Yea. "As many
 " as will not have this bill pass in manner
 " and form as hath been read, say No." S E C T.
III.
 If upon this question the whole house, or A. D.
1560, to
1586.
 the more part, do affirm and allow the
 bill, then the same is to be sent to the
 higher house to the lords. But if the
 whole house, or the more part do deny the
 bill, then the same is to be dashed out, and
 be rejected; but if it be doubtful upon
 giving voices whether side is the greater,
 then must a division be made of the house,
 and the affirmative part must arise and de-
 part into the outer room, which (by the
 serjeant) is voided beforehand of all per-
 sons that were there. And then the Speaker
 must assign two or four to number them
 first which sit down; and then the others,
 which be without, as they do come in one
 by one: and as upon the trial the bill shall
 be allowed or disallowed by the greater
 number, so to be accepted as is before
 said.

If upon this trial the number of either
 side be alike, then the Speaker shall give his

S E C T.
III.

voice, and that only in this point; for
otherwise he hath no voice.

A. D.
1560, to
1586.

Also, if any one of the house do misbehave himself, and break the order of the house, he hath to reform, correct, and punish him; but yet with the advice of the house.

If any foreign person do enter into that house, the assembly thereof being sitting, or do, by arresting any one person thereof, or by any other means, break the liberties and privileges of that house, he ought to see him punished.

Also, during the time of the parliament, he ought to sequester himself from dealing or intermeddling in any public or private affairs, and dedicate and bend himself wholly to serve his office and function.

Also, he ought not to resort to any nobleman, counsellor, or other person, to deal in any of the parliament matters, but must and ought to have with him a competent

petent number of some of that house, who may be witnesses of his doings.

S E C T.
III.

A. D.

1560, to
1586.

Also, during the time of parliament, he ought to have the serjeant of arms with his mace to go before him.

Also, he hath liberty to send any offender either to serjeant's ward, or to the tower, or to any other prison at his choice, according to the quality and quantity of the offence.

He hath allowance for his diet one hundred pounds of the king for every sessions of parliament.

Also, he hath for every private bill, passed both houses and enacted, five pounds.

At the end, and at the last day of parliament, he maketh his oration before the king in most humble manner, declaring the dutiful service and obedience of the commons

S E C T. commons then assembled to his majesty; as
 III. also most humbly praying his pardon if
 A. D. any thing shall have been done amiss.
 1560, to
 1586.

Of the Clerk of the Lower House.

THERE is only one clerk belonging to this house: His office is to sit next before the Speaker at a table, upon which he writeth and layeth his books.

He must make true entry of the records and bills of the house, as also of all the orders thereof.

The bills appointed unto him by the Speaker to be read, he must read openly, plainly, and sensibly.

The bills which are engrossed he must do it.

If any of the house ask the sight of any bill there, or of the book of the orders of
 the

the house, he hath to deliver the same unto him.

S E C T.
III.

A. D.
1560, to
1586.

If any desire to have the copy of any bill, he ought to give it him, receiving for his pains after the rate of ten lines a penny.

He may not be absent at any time of sitting, without special licence.

He ought to have for every private bill passed and enacted, forty shillings.

He hath allowed unto him for his charges (of the king) for every sessions, ten pounds.

Of the Serjeant or Porter of the Lower House.

THE Serjeant of this house is commonly one of the king's serjeants at arms, and is appointed to this office by the king: His office is to keep the doors of the house; and for the same he hath others under him,
for

S E C T. for he himself keepeth the door of the Inner
 III. House, where the commons sit, and seeth the
 A. D. same to be clean.
 1560, to
 1586.

Also, he may not suffer any to enter into this house during the time of the sitting there; unless he be one of the house, or be sent from the king or the lords, or otherwise licensed to come in.

If any such person do come, he ought to bring him in, going before him with his mace upon his shoulder.

If any be committed to his ward, he ought to take charge of him, and to keep him in safety until he be required of him.

If he be sent for any person, or to go in any message, he must leave a substitute behind him, to do his office in his absence.

He must always attend the Speaker, and go before him, carrying his mace upon his shoulder,

His

His allowance (during the time of parliament) is twelve pence a day of the king's charges.

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III.

A. D.
1560, to
1586.

Also, he hath of every knight and citizen, two shillings and fixpence; and of every burges, two shillings.

If any be commanded to his ward, he hath of every such prisoner by the day, six shillings and eight pence.

If any private bill do pass and be enacted, he hath for every such bill twenty shillings.

Of the Convocation House.

THE Convocation House is the assembly of the whole clergy, at and in some peculiar place appointed for that purpose.

But, as the barons and lords of the parliament have their house several and distinct

from

S E C T. ^{III.} from the commons; even so, the arch-
 bishops and bishops do sequester them-
 selves, and have a house several from the
 residue of the clergy. And this their house
 is called the Higher Convocation House, the
 other being named the Lower Convocation
 House. Both these houses have their se-
 veral officers, orders, and usages; and each
 officer hath his peculiar charge and func-
 tion; as also certain allowances, even as is
 used in the parliament houses by the lords
 and commons.

The archbishops and bishops do sit all at
 a table, and do discourse all such causes
 and matters as are brought in question be-
 fore them, either of their own motions, or
 from the higher court of parliament, or
 from the lower house of convocation, or
 from any private person. Every archbishop
 and bishop sitteth and taketh place accord-
 ing to his estate and degree, which degrees
 are known by such degrees and offices in
 the church as to every of them is assigned:
 for, one hath the personage of a priest, an-
 other

other of a deacon; this is a subdeacon, he is a sexton, and so forth, as such officers were wont to be in the church.

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1586.

The bishops do not sit at forenoon, but only at afternoon, because they being barons of the higher house of parliament, do resort and assemble themselves there in the forenoon, with the temporal lords.

The convocation house of the rest of the clergy do observe in a manner the like orders as the lower house of the commons do use; for, being assembled together on the first day with the bishops, they are by them willed to make choice of a speaker for them, whom they call the prolocutor: when they have chosen him, they do present him unto the bishops: and he thus presented maketh his oration, and doth all things as the speaker of the lower house for the commons doth, as well for the ordering of the clergy and of the house, as for the order in sitting, the order in speaking, the order of record-

S E C T. recording things done among them, and all
III. other such like things.

A. D.
 1560, to
 1586.

And this is to be understood, that the whole clergy can deal and intreat but only of matters of religion and orders of the church; which their doings and conclusions cannot bind the whole realm, unless they be confirmed by act of parliament: but yet they are sufficient to bind the whole clergy to the keeping thereof; so that the king (who is the supreme governor of both estates) do consent and confirm the same. And for so much, as by knowing the orders of the parliament house, you may also know the orders of both the convocation houses, which are like and correspondent to the others, these shall suffice for this matter.

Of extraordinary Persons which ought to be summoned to the Parliament.

BESIDE the personages of the former degrees, which ought to be summoned to the
 parlia-

parliament, the king also must warn and
 summon all his counsellors both of the one
 law and of the other; and these have their
 places only in the higher house, namely, the
 two justices and their associates of the king's
 bench and the common pleas, the barons of
 the exchequer, the serjeants, the attorney,
 the solicitor, the master of the rolls, and his
 fellows of the chancery.

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 III.

A. D.
 1560, to
 1586.

The offices of these personages are, to
 give counsel to the king and parliament, in
 every doubtful cause, according to the laws.

Also, if any bill be conceived and made
 disorderly, they ought to amend and re-
 form the same, upon order and command to
 them given.

Also, they must attend to come and go,
 at the commandment of the king and
 parliament.

Also, they may not speak nor give ad-
 vice, but when they be asked, and put to
 question.

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Also,

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A. D.

1560, to
1586.

Also, they have no voice in parliament, because they are commonly counsellors to the same.

They are all retained at the king's charges.

Likewise, all officers of the parliament are to be summoned; as, namely, the chancellor of the parliament, the clerks, the serjeants, the porters, and such others, who likewise are retained at the king's costs. Of their offices and charges it is already particularly declared.

Of the Days and Hours to sit in Parliament.

ALL days of the week are appointed, saving and excepted the Sundays, and all principal feasts; as, namely, the feast of Allhallows day, Christmas, Easter, Whitsuntide, and Saint John the Baptist's day; and also

also such other days as the parliament by
consent shall appoint and assign.

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1586.

The beginning is at eight o'clock in the morning, and doth continue until eleven of the clock.

They do not sit at afternoons, for those times are reserved for committees and the convocation house.

In the morning they begin with the common prayer and the litany, which are openly read in the house.

Of the King, his Office, and Authority.

HAVING declared of all the estates, degrees and personages of the parliament, it resteth now to speak also of the King, and of his office; who is all in all, the beginning and ending, and upon whom resteth and dependeth the effect and substance of the whole parliament: for, with-

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1586.

out him and his authority, nothing can be done; and with it all things take effect. Nevertheless, when he calleth and assembleth his parliament, there are fundry orders, which of him are to be observed, and which he ought to see to be kept and executed; or else the parliament ceaseth to be a parliament, and taketh not his effect, of which orders these be the chief which do ensue.

First, the king ought to send out his summons to all the estates of his realm, of a parliament, assigning and appointing the time, day, and place.

Also, his summons must be at the least forty days before the beginning of his parliament.

Also, he must appoint and provide all such officers as ought to attend the parliament, who must be found at his charges.

Also,

Also, the king ought not to make any choice, or cause any choice to be made, of any knight, citizens, burgesſes, proctors of the clergy, ſpeaker of the common houſe, or prolocutor of the convocation houſe, but they muſt be elected and choſen by the laws, orders, and cuſtoms of the realm, as they were wont and ought to be, and the king's good advice yet not to be condemned.

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Also, the king ought to grant, permit, and allow, to all and every the eſtates, and to every particular man lawfully elected and come to the parliament, all and every the antient freedoms, privileges, immunities, and cuſtoms, during the parliament, as alſo during the times and days, coming and going to and from the parliament; but yet the ſame ſhould humbly be requested of his highneſs by the ſpeaker, in his oration at the beginning of the parliament.

Also, the king in perſon ought to be preſent in the parliament three days at the

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}

A. D.

1560, to

1586.

least, during the time of the parliament ; that is to say, the first day, when the whole estates, according to the summons, make their appearance, which is called the first day of the parliament. On the second day, when the speaker of the commons house is presented, which is counted the beginning of the parliament. And the third day, which is the last day, when the parliament is prorogued or dissolved : for, upon these days he must be present, unless in case of sickness or absence out of the realm ; for, in these cases the king may summon his parliament by commission, and the same is of as good effect as if he were present in person ; and as for any other days, he is at his choice and liberty to come, or not to come to the parliament.

Also, the king ought to propose to the parliament in writing, all such things and matters of charge, as for which he calleth the said parliament. And accordingly, as the same shall then, by the consent of all the estates be advised, concluded, and agreed :
so

so the king hath either to allow or disallow the same, for he can (of himself) neither add nor diminish any bill, but accept the same as it is presented unto him from the estates of parliament, or else altogether reject it.

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Also, the king doth prefix and assign the day and time when the parliament shall begin; so also he must assign and appoint the time, when the same shall be prorogued or dissolved; which ought not to be as long as any matters of charge, weight, or importance be in question, and the same not decided nor determined.

Of the Dignity, Power, and Authority of the Parliament, and of the Orders of the same.

THE parliament is the highest, chiefest, and greatest court, that is or can be within the realm; for, it consisteth of the whole realm, which is divided into three estates;

K 4

that

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1586.

that is, to wit, the king, the nobles, and the commons; every of which estates are subject to all such orders as are concluded and established in parliament.

These three estates may jointly, and with one consent or agreement, establish and enact any laws, orders, and statutes for the commonwealth; but being divided, and one swerving from the other, they can do nothing. For, the king, though he be the head, yet alone cannot make any law, nor yet the king and his lords only; nor yet the king and his commons alone; neither yet can the lords and the commons without the king, do any thing of avail. And yet nevertheless, if the king in due order have summoned all his lords and barons, and they will not come, or if they come they will not appear, or if they come and appear yet will not do or yield to any thing, then the king, with the consent of his commons, (who are represented by his knights, citizens, and burgeses,) may ordain and establish any act or law, which are as good, sufficient, and

and effectual, as if the lords had given their
consents.

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1586.

But of the contrary, if the commons be summoned and will not come, or coming will not appear, or appearing will not consent to do any thing, alleging some just, weighty, and great cause, the king (in these cases) cannot with his lords devise, make, or establish any law; the reasons are these: When parliaments were first begun and ordained, there were no prelates or barons of the parliament, and the temporal lords were very few or none, and then the king and his commons did make a full parliament, which authority hitherto was never abridged. Again, every baron in parliament doth represent but his own person, and speaketh in behalf of himself alone.

But in the knights, citizens, and burgeses, are represented the commons of the whole realm; and every of these giveth, not consent only for himself, but for all those also for whom he is sent. And the
king,

S E C T. III. king, with the consent of his commons,
 had ever a sufficient and full authority to
 make, ordain, and establish good and whole-
 some laws for the commonwealth of this
 realm. Wherefore the lords, being law-
 fully summoned, and yet refusing to come,
 sit, or consent in parliament, cannot by
 their folly abridge the king and the com-
 mons of their lawful proceedings in parlia-
 ment.

A. D.
 1560, to
 1586.

The lords and commons, in time past,
 did sit all in one house; but, for the avoid-
 ing of confusion, they be now divided into
 two severall houses; and yet, nevertheless,
 they are of like and equal authority, every
 person of either of the said houses being
 named and counted a peer of the realm,
 (for the time of the parliament,) that is to
 say, equal; for *par* is equal. And there-
 fore the opinion, censure, and judgment of
 a mean burghers, is of as great avail, as is
 the best lord's, no regard being had to the
 party who speaketh, but the matter that is
 spoken.

They

They be also called peers, as it were fathers; for *pere* is a father: by which is meant, that all such as be of the parliament should be ancient, grave, wise, learned, and expert men of the land; for such were the senators of Rome, and called *Patres conscripti*; for the wisdom and care that was in them in governing the commonwealth. They are also called counsellors, because they are assembled and called to the parliament for their advice and good counsel in making and devising all such good orders and laws as may be for the commonwealth.

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They, therefore, which make choice of knights, citizens, and burgessees, ought to be well advised, that they do elect and choose such as being to be of that assembly, and thereby equal with the great estates, should be grave, ancient, wise, learned, expert and careful men for their commonwealth, and who (as faithful and trusty counsellors) should do that which should turn and be for the best commodity of the commonwealth;

S E C T. wealth; otherwise they do great injury to
 III. their prince and the commonwealth.

A. D.

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 1586.

Also, every person of the parliament, during the times of the parliament, and at his coming and going from the same, is free from all troubles, arrests, and molestations; no action or suit taking effect which, during that time, is begun, entered, or commenced against him, in what court soever the same be, except in causes of treason, murder, and felony, and except all executions in law awarded and granted before the beginning of parliament.

Also, every person, having voices in parliament, hath free liberty of speech to speak his mind, opinion, and judgment, to any matter proposed; or of himself to propose any matter for the commodity of the prince and of the commonwealth: but, having once spoken to any bill, he may speak no more for that time.

Also, every person once elected and chosen a knight, citizen, or burghers, and returned,

returned, cannot be dismissed out of that house; but being admitted, shall have his place and voice there, if he be a layman. But if by error a man *of the clergy* is chosen, then he ought and shall be *dismissed*; also, if he be excommunicated, outlawed, or infamous.

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Also, every one of these members ought to be incorrupt; no briber nor taker of any rewards, gifts, or money, either for devising of any bill, or for speaking of his mind, but to do all things uprightly, and in such sort as is best for the king and the commonwealth.

Also, every one ought to be of a quiet, honest, and gentle behaviour; none taunting, checking, or misusing another in any unseemly words or deeds, but, all affections set apart, to do and endeavour, in wisdom, sobriety, and knowledge, that which that place requireth.

Also, if any one do offend or misbehave himself, he is to be corrected and punished
by

S E C T. by the advice and order of the residue of
 III. the house.

A. D.
 1560, to
 1586.

Also, all the prisons, wards, jails, within the realm, and the keepers of the same, are at the commandment of the parliament for the custody and safe keeping, or punishment, of all and every such prisoners as shall be sent to any of them by the said parliament houses, or any of them; howbeit, most commonly the Tower of London is the prison which is most used.

Also, if any one of the parliament house be served, sued, arrested, or attached by any writ, attachment, or minister of the King's Bench, Common Pleas, Chancery, or what court soever within this realm, the party so troubled and making complaint thereof to the parliament house, then forthwith a serjeant at arms is to be sent to the said court, not only advertising that the party so molested is one of the parliament house, but also inhibiting and commanding the officers of the said court to call in the
 I said

faid procefs, and not to deal any further
againft the faid party; for, the parliament
being the higheft court, all other courts are
inferior, and yield and give place to the
fame.

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III.

A. D.
1560, to
1586.

Alfo, as every one of the parliament
houfe is free for his own perfon for all
manner of fuits to be commenced againft
him, fo are all his fervants free, and not
to be troubled or molefted; but, being
troubled, they have the like remedy as the
mafter hath or may have.

Alfo, no manner of perfon, being not
one of the parliament houfe, ought to enter
or come within the houfe, as long as the
fitting is there, upon pain of imprifon-
ment, or fuch other punishment, as by the
houfe fhall be ordered and adjudged.

Alfo, every perfon of the parliament
ought to keep feeret, and not to difclofe,
the fecrets and things done and fpoken in
the parliament houfe, to any manner of
perfon,

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 III.
 A. D.
 1560, to
 1586.

person, unless he be one of the same house,
 upon pain to be sequestered out of the
 house, or otherwise punished, as by the
 order of the house shall be appointed.

Also, none of the parliament house
 ought to depart from the parliament with-
 out special leave obtained from the speaker
 of the house, and the same his licence
 should be also recorded.

Also, no person, being not of the par-
 liament house, ought to come into the same
 during the sitting of the same: so every
 one coming into the same oweth a duty
 and reverence to be given when he entereth
 and cometh in.

If a baron or lord come and enter into
 the higher house, he ought to do his obei-
 sance before the cloth of estate, and so
 take his place.

Also, when he speaketh, he ought
 to stand bare-headed, and speak his
 mind

mind plainly, sensibly, and in decent order. S E C T.
III.

A. D.
1560, to
1586.

If any come in message, or be sent for to the higher house, they must stay at the inner door until they be called in; and then, being entered, must first make their obeisance; which done, they go to the lower end of the house, and there stay until they be called; and being called, they must first make one low courtesy and obeisance, and going forwards must, in the middle way, make one other low courtesy; and then, being come forth to the bar, must make the third courtesy: the like must be done at the departure.

Also, when any knight, citizen, or burghers, doth enter or come into the lower house, he must make his dutiful and humble obeisance at his entry in, and then take his place. And you shall understand, that as every such person ought to be grave, wise, and expert, so ought he to shew himself in his apparel; for, in times past, none of the

S E C T.
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counsellors of the parliament came otherwise than in his gown*, and not armed nor girded with a weapon. For the parliament house is a place for wise, grave, and good men, to consult, debate, and advise, how to make laws and order for the commonwealth, and not to be armed as men ready to fight, or to try matters by the sword. And, albeit, the writ for the election of the knights have express words to choose such for knights as be girded with the sword, yet it is not meant thereby that they should come and sit armed, but be such as be skilful in feats of arms, and, besides their good advices, can well serve in martial affairs; and thus the Roman senators used; who, being men of great knowledge and experience, as well in martial affairs as in politic causes, sat always in the senate-house and places of council in their gowns and long robes. The like

* From a motion that was made in the house of commons in the year 1613, which shall be noted in its place, it appears, that the members in the last parliaments of Elizabeth wore gowns.

also was always, and hath been the order
 in the parliament of this realm, as long as
 the ancient laws, the old customs, and good
 order thereof, were kept and observed.

SECT.
 III.
 A. D.
 1560, to
 1586.

If any other person or persons, either
 in message or being sent for, do come, he
 ought to be brought in by the serjeant; and
 at the first entering must (following the ser-
 jeant) make one low obeisance, and being
 past in the middle way, must make one
 other; and when he is come before the
 speaker, he must make the third, and then
 do his message: the like order he must
 keep in his return. But if he do come
 alone, or with his learned counsel to plead
 any matter, or answer to any objections, he
 shall enter, and go no farther than to the
 bar within the door, and there do his three
 obeisances.

When any bill is committed, the com-
 mittees have not authority to conclude,
 but only to order, reform, examine, and
 amend the thing committed unto them;
 and of their doings they must give report

SECT. to the house again, by whom the bill is to
 III. be considered*.

A. D.
 1560, to
 1586.

Every bill, which is brought into the house, must be read three several times, and upon three several days. And a bill, which upon any reading is committed and returned again, ought to have its three readings, unless the committees have not altered the bill in any substance or form, but only in certain words. Also, when any bill upon any reading is altogether by one consent rejected, or by voices after the third reading overthrown, it ought not to be brought any more to be read during that session of parliament.

If any man do speak unto a bill, and be out of his matter, he ought to be put in remembrance of the matter by the speaker only, and by none other, and be willed to come to the matter.

* From this rule it is plain, that a report should be made in all cases; and that a bill could not be rejected in a committee, to whom it was consigned only to be amended, according to the antient course of regular proceeding:—hence it follows, that the modern practice of voting a chairman out of the chair, in order to get rid of a bill, is an unparliamentary innovation.

When-

Whensoever any person doth speak to any bill, he ought to stand up, and to be bare-headed, and then with all reverence, gravity, and seemly speech, to declare his mind. But whensoever any bill shall be tried, either for allowances or to be rejected, then every one ought to sit, because he is then as a judge.

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1560, to
1586.

Also, every knight, citizen, and burghers, before he do enter into the parliament, and take his place there, ought to be sworn and to take his oath, acknowledging the king to be the supreme and only governor of all the estates within the realm, as also to renounce all foreign potentates.

*The Order of the Beginning and Ending of
the Parliament.*

On the first day of the summons for the parliament, the king in proper person, (unless he be sick or absent out of the realm,) being apparelled in his royal and

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1586.

parliament robes, ought to be conducted and brought by all his barons of the clergy and laity, and the commons summoned to the parliament, unto the church, where a sermon ought to be made by some archbishop, bishop, or some other famous learned man. The sermon ended, he must, in like order, be brought to the higher house of parliament, and there take his seat under the cloth of estate; likewise, every lord and baron (in his degree) ought to take his place.

This done, the lord chancellor, or he whom the king appointeth to be speaker of that house, maketh his oration to the whole assembly, declaring the causes why and wherefore that parliament is called and summoned, exhorting and persuading every man to do his best endeavour in all such matters as shall be in the said parliament proposed, as shall be most expedient for the glory of God, the honour of the king, and the commonwealth of the whole realm. Then he directeth his talk unto the knights, citizens,

citizens, and burgesſes, advertiſing them that the king's will is, that they do repair to their houſe, and there, according to the old and ancient cuſtom, do chooſe and elect ſome one, wiſe, grave, and learned man among themſelves, to be Speaker for them, and giveth them a day when they ſhall preſent him to the king; and theſe things thus done, the king ariſeth, and every man departeth. This is accounted for the firſt day of the parliament,

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The ſecond or third day after, when the ſpeaker is to be preſented, the king, with all his nobles, (in like order as before,) aſſemble again in the higher houſe, and then come in all the commons of the lower houſe, and then and there do preſent their Speaker unto the king. The Speaker forthwith maketh his dutiful obeiſances and his oration before the king, and proſecuteth ſuch matters as occaſion ſerveth, and as is before recited in the office of the Speaker; and this done, every man departeth. And this is accounted for the beginning of the

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parliament ; for, before the Speaker be presented, and these things orderly done, there can no bills be put in.

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1586.

Lastly, when all matters of weight be discussed, ended, and determined, the king commandeth an end to be made. And that day, the king, his nobles, and commons, do again assemble in the higher house in their robes, and in like order as is before recited, where the Speaker maketh his oration, and is answered by the lord chancellor or speaker of the higher house. Then all the bills are concluded and past in both houses ; that is to say, they are there read by titles ; and then the king giveth his consent, or dissent, to every of them as he thinketh good. And then the titles of all the bills are read ; the lord chancellor, or lord speaker, by the king's commandment, pronounceth the parliament to be prorogued or clean dissolved. And this is called the last day, or end of the parliament ; and every man is at liberty to depart homewards.

The

The Monday following, sir Christopher Barnewell and his accomplices having better considered of themselves, were quiet and contented; and a parliament, begun with some troubles, had its continuance and end with better success. In the time of this parliament, and after the same, fundry grievous complaints were exhibited to the lord deputy and council, by the late wife of the deceased baron of Dunboin, MacBrian Ara, Oliver Fitzgerald, sir William Ocarrell, and divers others the queen's good subjects, against sir Edmund Butler and his brethren, for fundry routs and riots, spoils and outrages, which they were charged to have done upon her majesty's subjects. Whereupon, first letters, and then commissioners, were sent into the counties of Kilkenny and Tipperary, for the hearing and redressing thereof; but they returned without doing any thing. For, sir Edmund Butler conceiving some hard dealing to be meant towards him by the lord deputy, and minding to stand upon his defence and guard, did not appear before the said commissioners,

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missioners, but both he and his brethren combined themselves with James Fitzmorris O'Desmond, MacArty More, MacDonogh, and the feneschal of Imokilie, and others of Munster, who before (and unwilling the Butlers) had sent the usurped bishops of Cashell and Emelie, together with the youngest brother of the earl of Desmond, unto the pope and to the king of Spain; for reformation of the popish religion, and for freeing the land from the possession of her majesty, and from her imperial crown: which matter in the end brake out into an open and actual rebellion; and the lord deputy by proclamation published them all to be traitors, and against whom he prepared an hosting. But before the same was fully prepared, he sent his letters and commandment unto sir Peter Carew knight, then being at Leighton, to enter into the action of wars against sir Edmund Butler, who being accompanied with captain Gilbert, captain Malbie, captain Bassett, and others, lately sent unto him from the lord deputy, followed his commandment, and first

first assaulted the castle of Cloughgrenan in the Dullogh, belonging to sir Edmond Butler, and took it, and gave the spoil unto the soldiers.

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1586.

This is the conclusion of Mr. Hooker's account of this session of parliament.

A P P E A L S.

IN this collection of orders, there are no regulations about hearing causes in the house of lords of England. The first regulation about the mode of bringing in a writ of error, was in the forty-third year of Elizabeth; and the first appeal from the court of chancery was from a decree of the chancellor Bacon, in the reign of king James the first. As no causes are noted in the Journals antecedent to that first period, it is probable they were tried by a select committee composed of the lord chancellor and five lords, combined with the judges, under a law of Edward the third; and the custom of appointing triers of petitions every new parliament, (the number of whom

and

S E C T. and their designations seem to follow the
 III. prescriptions of this law,) countenances this
 A. D. opinion: besides; the trials of causes by lords'
 1560, to committees appointed for that purpose, occur
 1586. very often till the Restoration in the Eng-
 lish Journals.

This is however offered only as a con-
 jecture; but as this circumstance struck the
 author very strongly upon going through
 the Journals of the lords of England, and
 as it is in itself a matter of great curiosity,
 a speech which was made in May
 one thousand seven hundred and eighty-
 seven, upon an important question relative
 to the construction of an order about the
 rehearing of causes, is added in the Ap-
 pendix. The author does not hereby pre-
 sume to dogmatize, or to decide upon a
 question of such depth and magnitude; but
 hopes that these conjectures may excite
 that enquiry which may lead to the dis-
 covery of truth, and to the elucidation of
 abler men, more informed in parliamentary
 proceedings.

IN this collection of the English orders which were presented by Mr. Hooker, and adopted by the Irish parliament, it is remarkable that there is not any oath or particular form of allegiance prescribed for members of parliament; nor were there till a very late period any subscriptions, oaths, or engagements, which prevented Roman catholics or dissenters from sitting in the Irish legislature.

Upon the establishment of the supremacy of the crown in ecclesiastical matters, an oath of allegiance and of acknowledgment of the queen's, and the disavowal of any foreign authority, was prescribed in Ireland by the seventh section of the second of Elizabeth, chapter the first. The oath was to be administered to all persons and all officers, lay and ecclesiastical, by commissioners appointed at the discretion of the lord lieutenant, by letters patent.

This oath might be administered to members of parliament, in common with other subjects;

S E C T. subjects; but from the following resolution
 III. in the commons' journal, the fifteenth
 of May one thousand six hundred and
 A. D. sixty-one, it appears, that it was not a
 1560, to necessary preliminary to administer even
 1586. this engagement; still less any other oath
 contrary to the tenets of the catholics: so
 that, from the earliest periods, to the revolution,
 (when this Irish law was repealed by an act of the English parliament, prescribing new oaths, which last, in one thousand seven hundred and eighty-two, was adopted by the Irish legislature,) religious tenets were no disqualifications, and Roman catholics were members of the Irish legislature.

“ Ordered, That the undernamed persons,
 “ or six of them, do attend the lords
 “ justices, and request them to grant a
 “ warrant to the chancellor, to issue a commission
 “ to such persons as he shall think
 “ fit, to administer the oath of supremacy,
 “ &c. contained in the act of the second
 “ of Elizabeth, in this kingdom; and the
 “ oath of the third of James in England,
 “ to

“to all and every one, that are or shall be
 “hereafter members of this house, in man-
 “ner prescribed by said acts.”

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 1586.

Thus the matter rested, till the end of the next session; but it appears that that parliament thought some further security was necessary, by a bill which passed the house on the fourteenth of April one thousand six hundred and sixty-three, (three days before that long session was closed by a prorogation,) for excluding those from parliament who would not take these oaths: but this bill, for want of time, did not pass into a law.

The duke of Ormond, in his last government, in one thousand six hundred and seventy-seven, had proposed the summoning of a parliament in Ireland, which at that time was very necessary. This his grace's enemies in the English ministry opposed; and one of their manœuvres to disappoint this wise measure was a proposition in the drafts of the intended laws which were to be sent over from the Irish council
 under

S E C T. ^{III.} under Poynings' law, for the adoption of
 the laws for preventing Papists from sitting
 in parliament, and those severe tests which
 were adopted as an expedient after the act
 of exclusion was negatived in England.

A. D.
 1560, to
 1586.

This they knew would create great difficulties in summoning the Irish parliament, and would also be contrary to the duke's wish; who thought, with every man of sense, that in a country where different religions prevailed; religious, ought not to be converted into political distinctions, which would introduce a constant ferment, and increasing animosity between those of different persuasions.

These difficulties were so great, that it was the principal cause why no regular parliament was summoned in Ireland, from one thousand six hundred and sixty-six, till one thousand six hundred and ninety-two; I say regular, because a parliament was convened by king James the second in Ireland, which was held contrary to Poynings' law,

and

and other fundamental provisions; and its proceedings were formally annulled, after the revolution.

S E C T.
III.

A. D.
1560, to
1586.

Previous to the meeting of the Irish parliament, in one thousand six hundred and ninety-two, the oath established by the second of Elizabeth was repealed, and other forms of an oath of allegiance and supremacy were prescribed by an English law; also an oath of disavowal, or of abjuration of the tenets of the Roman catholics, was ordered to be taken, previous to members sitting or voting in parliament, under penalties of disqualification, &c. &c.

These oaths were adopted by a law in Ireland in one thousand seven hundred and eighty-two; and of their observance, the Irish parliament are still very tenacious, and justly and wisely attentive; of which a circumstance that happened in the session of one thousand seven hundred and ninety-one, is a curious instance.

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A. D.
1560, to
1586.

The earl of Farnham had, in the beginning of a new parliament, forgot to take the usual oaths, and had incautiously spoke and voted in a question in the house of lords. This was at first scarcely believed, from his knowledge of forms, and his ability, his admitted experience and capacity, as a commoner, and a lord of parliament: but this lapse having been proved, in one whose loyalty and principles were unquestionable, his lordship was considered to be disqualified to sit as a member of parliament, till he should be restored to his privileges, by the sovereign authority of the legislature, and an act had passed for that purpose.

But though Roman catholics have been restrained by those oaths from sitting in parliament since the revolution, they exercised the elective franchise till one thousand seven hundred and fifteen, without any restraint; at which period, by a law of the second of George the first, chapter the nineteenth, Roman catholic electors were enjoined to take the oaths of allegiance

and supremacy six months before the election, under the penalties of forfeiture of one hundred pounds, and other severe and summary punishments*; but, having taken them, it is to be observed, that they were still permitted to vote, even under this last act of parliament.

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III.
A. D.
1560, to
1586.

But in the year one thousand seven hundred and twenty-seven, by an act † of

* This law contained general regulations for sheriffs, returning officers, elections, and fraudulent conveyances to multiply votes, a freeholder's oath, a provision for six months' residence before the election, entertainments, &c. &c. The seventh section enjoins, that catholics should take the oath of allegiance and supremacy six months before they vote, and at the election, if required; and if they vote without having taken them, upon legal conviction, they were to be fined one hundred pounds upon a *qui tam* action; namely, half to the king, and half to the informer.

† The first of George the second, chap. ix. sect. 7.
“ For the better preventing papists from voting in
“ elections, be it further enacted, &c. That no papist,
“ though not convicted, shall be intitled or admitted to
“ vote at the election of any member to serve in par-
“ liament as knight, &c. or any election of magistrates
“ in corporations, any law or usage to the contrary
“ notwithstanding.”

S E C T. ^{III.} the first of George the second, chapter the
 ninth, a law passed, by which Roman
 catholics, or even those who were not con-
 vict, or in other words, who were gene-
 rally reputed and considered as such, were
 prohibited from voting for members of
 parliament, or magistrates of corporations.

A. D.
 1560, to
 1586.

How far this last act was necessary, poli-
 tic, or expedient; whether it trenched upon
 any limits of power which a created
 body may be supposed to possess over the
 rights of their constituents, and of that body
 from whom their powers were delegated,
 and to whom they owed their existence,
 may be questioned: it seems to have been
 a greater stretch of power than that which
 was exercised by the triennial parliament
 in Great Britain in one thousand seven
 hundred and seventeen, of extending them-
 selves and their existence to a septennial
 legislature. But it is time to close a digres-
 sion upon tender ground, that might lead
 to a discussion upon a great question, about
 which such diversity of opinion prevails at
 the present moment.

SECTION IV.

Of the Sessions in 1613, 1614, and 1615.

THE Journals of the house of commons of Ireland begin the eighteenth of May one thousand six hundred and thirteen. As the author of the present work never had the good fortune to be a member of that house, and consequently cannot be supposed to be practically conversant in their orders, this short abstract of their proceedings is given with due deference to men who understand their orders much better, and with a proper diffidence of his own information.

SECT.
IV.
A. D.
1613, to
1615.

The parliament met on the eighteenth of May one thousand six hundred and thirteen, and it was continued by several prorogations to the eleventh of October one thousand six hundred and fourteen* : the

* Commons' Journals, vol. i. p. 12.

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IV.A. D.
1613, to
1615.

names of the members of this parliament are inserted in the Journal, amounting to two hundred and thirty-two. The Speaker was the famous sir John Davis, the attorney general.

Upon the eleventh of October, the parliament being assembled, the Speaker read prayers, according to the pious custom of those times. Of his election, and the manner of proceeding thereupon, there is not any account in the Journals. On the twelfth of October the house met again, when it was moved, That a particular copy of the king's instructions for holding a parliament should be laid before the house. On the seventeenth, in an afternoon sitting, the house agreed to a report from a committee, that no places shall be questioned for their right to send members, that sent them in the twenty-eighth of Elizabeth, or in antecedent parliaments; an order was made, for bringing in the new charters of the University of Dublin, and of Newcastle; and orders were given to search for

for precedents, whether the judges should
 sit in parliament. A message was brought
 by the master of the rolls, and judge
 Sarsfield, with a bill to attain the earl of
 Tyrone.

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 IV.
 A. D.
 1613, to
 1615.

On the eighteenth of October, a long debate took place about this bill; in which short notes are entered of the speeches.

On the twenty-fifth of October, on a private bill, the speeches of the council are also entered.

On the twenty-ninth of October*, on the motion of sir John Everard, a very extraordinary debate took place, about wearing gowns. The notes of the speeches upon this subject are so curious that I shall give them.

“ Sir John Everard said, That it was fit;
 “ alleging the example of Julius Cæsar,

* Commons' Journals, p. 22.

SECT. IV. "and of sir John Norris in the last parlia-
 ment." "Sir Christopher Nugent said,
 A. D. "That Mr. Hartpole borrowed a short
 1613, to
 1615. "gown, in the last parliament."

"Mr. Galway confirmed it, being a mem-
 ber of that parliament, and then it was
 agreed upon by the house, That touching
 the several motions for wearing gowns,
 the grand committee shall peruse and
 consider of the testimonies and proceed-
 ings of the last parliament*."

On the fourth of November, sir Francis Aungier, master of the rolls, and judge Sarsfield, came from the lords to tell them, that four lords would come to propose a conference about some scandalous words spoken by Mr. Fish; and, upon taking the message into consideration, he was ordered

* Of this custom of wearing gowns in the early sessions in the house of commons in both kingdoms, notice has been taken in the orders adopted in the session of the eleventh of Elizabeth.

to

to withdraw: upon a motion it was carried by ninety-three to seventy-one against a censure at the bar. This conference caused some controversy about ceremonies; but as these idle disputes were so common and so trifling, I shall reserve the consideration of them to a particular chapter on conferences.

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IV.

A. D.
1613, to
1615.

On the ninth of November, it was resolved, That whereas some persons have been unduly elected, some for being judges, some for not being estated in their boroughs, some for being outlawed, excommunicated; and, lastly, for being returned for places whose charters were not valid; it was resolved not to question them for the present, in order to prevent stopping public business; but this resolution was not to be drawn into precedent.

On the same day, Mr. Fish, who had been committed for contemptuous words, petitioned for his release, and the house was adjourned to eight o'clock the next morning;

S E C T.

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}

A. D.

1613, to

1615.

morning; at which early hour they probably met, and had two sittings on the same day; one before, and the other after dinner; of which, in former times, many instances occur both in the English and Irish Journals.

On the nineteenth of November, it was resolved, That no member should be impanelled upon a jury, if, before he was sworn, he should discover himself to be a member.

On the twenty-fifth of November, it was ordered, That members for counties should have thirteen shillings and fourpence, for cities ten shillings, and for boroughs six shillings and eight pence a day of Irish money, (unless a previous agreement was made for less,) ten days before, and ten days after, the prorogation of parliament; and privilege of parliament was resolved to be for forty days before, and forty days after, the sessions, upon a consideration of the third of Edward the fourth,

fourth, chapter one, which act ascertains parliamentary privilege in Ireland*.

S E C T.
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A. D.
1613, to
1615.

This session concluded with a very extraordinary act of state, whereby certain provisions in a bill, for the attainder of the earl of Tyrone, were set aside, which affected the estate of John Bath. This was signed by the lord deputy Chichester, the chancellor, and eleven privy counsellors.

In this session, which was ended by the lord deputy passing several bills, and proroguing parliament to the last day of January, the house of commons sat twenty-six days.

In the session which met on the eighth day of April one thousand six hundred and fifteen†, the house of commons sat twenty days. The following are the most remarkable transactions:

* Commons' Journals, vol. i. p. 38 and 39.

† Commons' Journals, vol. i. p. 43.

On

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A. D.
1613, to
1615.

On the twentieth of April, several propositions were made to the lord deputy for acts of parliament; and they, in one of them, acknowledge the sole right to be in the lord deputy and council to prepare bills to be propounded to parliament, and that they can only act as remembrancers under Poynings' law.

On the twenty-second of April, the house being met at eight o'clock, for the purpose of reading an act of subsidy, Mr. Sutton moved the house, That, as it tended to the king's private benefit, it might be deferred till other acts for the commonwealth were read; alleging the old saying, "Little said, soon amended; a subsidy granted, parliament ended." But it was carried, that it should immediately be proceeded upon.

A petition was read from lord chancellor Loftus, stating, That he had been offered forty angels by Mr. Sherlock, a member of the commons, to reverse a decree.

On

On the twenty-fourth of November, the order of the last session was renewed *verbatim*, relative to postponing enquiries into the returns of members, &c. who were disqualified as judges, as being outlawed, &c. or returned for places which had no charter.

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IV.

A. D.

1613, to

1615.

On the twenty-sixth of April, it was moved by Mr. Fernham upon precedents, That when a member was called by writ, or otherwise, to the lords, that the house should accompany him thither, which rule was adopted in the case of Walter earl of Ormond, late member for Tipperary.

Upon this occasion Mr. treasurer St. John told the lords, that they came to present a member to them as a peer; on which, having departed, they were called in again and thanked by the chancellor, who said, that he came there not by their presentment, but by the king's writ. This ancient custom seems to have been a remnant of making peers in parliament, and by their consent.

This

S E C T. This custom was dropped in the reign of
 IV.
 A. D. 1613, to 1615. Henry the seventh in England, till which
 time it is argued, in his able Treatise, by
 the chancellor West, that all peers were
 made by the king and parliament.

Two knights, and two burgesſes in each ſhire, were ordered to meet the next day to appoint proper perſons for the collection of the ſubſidies, and to move the lord deputy to intimate to them to follow the courſe in England about levying taxes.

After a long debate, in which the ſpeeches are noted, Mr. Sherlock was puniſhed by commitment to the caſtle of Dublin, and ordered to beg pardon on his knees in the court of Chancery for his inſult to the chancellor.

On the twenty-ninth of April, lord Howth made a complaint of words ſpoken againſt him at the council table by a member, Mr. Lutterel, "That he was ſo inſolent, he cared not what to affirm or ſay."

On

On the third of May, it was ordered, S E C T.
IV.
That a bill should not be read thrice
in one day; and this to be a general
rule. A. D.
1613, to
1615.

On a bill about recusants, it was said by the treasurer St. John, that it was irregular to speak to a bill on the first reading. This is a rule in the lords, grounded on this obvious reason, that, as the lords have a right to present a bill without asking leave, a lord would only present a meer paper if it were not read a first time without debate.

On the fifth of May, an order was made relative to the payments by sheriffs, and other head officers of different districts, chargeable with wages to members of parliament; that they should pay the same, under penalty of thirty pounds, to the clerk of the parliament within two months from this date, according to the prescriptions of an act of the twenty-third of Henry

SECT. Henry the sixth^{*}; and that all lands should
 IV. be chargeable therewith, except the lands of
 A. D. bishops, peers, and their dowagers.
 1613, to
 1615.

On the eighth of May, fifteen members were fined, by the loss of their wages, for non-attendance.

On the tenth of May, a long, free conference took place, relative to levying money on the lands of lords and bishops, which broke off abruptly without any determination.

On the fifteenth, it was resolved, That as there had not been one private bill that session, and the clerks had much trouble, that Mr. Edmond Mendhop, the clerk, should receive twenty-two pounds of the fine of Mr. Paul Sherlock, who had been mulcted for offering to bribe the chancellor. This circumstance must bring to

* As this act of the 23d of Henry VI. is not now on the Code, it is a proof that many parliamentary records were lost in the great rebellion.

recollection, the memorable instance of corruption in England about this period, of the greatest name in the walks of science, and the corruptest character in the records of law, of lord chancellor Bacon; and from these circumstances, it is probable that the ancient, were not arrived at the judicial purity of modern times.

S E C T.
IV.
A. D.
1613, to
1615.

On the same day, sir Thomas Ridgeway, vice-treasurer; sir James Hamilton, privy counsellor; sir John Everard, and Richard Bolton, Esqrs. (afterwards chancellor), were named commissioners from the house of commons, and recommended to be charged with the affairs of the commonwealth, before the king and the English privy council.

On the sixteenth of May, the parliament was prorogued, and they met again on the twenty-fourth of October one thousand six hundred and fifteen; when they were dissolved by a commission to certain select commissioners, which was read in parliament.

S E C T.
IV.A. D.
1613, to
1615.

In this parliament the commons sat twenty days, as before mentioned. The session concluded with a representation, from the lords to the lord deputy, of certain grievances of the commons: first, of certain abusive words of two members, that the lords had no care of the commonwealth.

Secondly, That a bill for the restitution in blood of sir John Heydon, commenced in their house, and not in the lords*.

Thirdly, That they had assailed the lords and their tenants, for wages for their own members and other public charges: and lastly, that they had declined propounding considerations jointly with them, to the deputy, and council, to be passed into laws. This representation was signed by twenty-

* N. B. Bills of restitution in blood, by an order of the house of lords, now always commence in that house. Acts of grace and general pardon, from the king; which last are read only once; the members present standing up uncovered,

seven

seven lords, the chancellor at their head ; and it was answered by the commons in a long replication.

SECT.
IV.

A. D.
1613, to
1615.

Of the lords there are no Journals extant during this session: and, from a passage alluding to the trial of lord Slane for murder, in Mr. Prynne's argument in the case of lord Maguire, in one thousand six hundred and forty, upon a question whether an Irish peer could be tried for treason committed in Ireland, under the English act of the thirty-fifth of Henry the eighth, in the King's Bench of England, (which was determined in the affirmative,) it is doubtful, whether at this period any regular Journals were kept in that house.

The two houses met in the castle of Dublin; where, according to sir John Davis, rooms had been prepared for them during these two sessions; and from this period, till one thousand six hundred and thirty-four, parliaments were not held in Ireland.

S E C T.
IV.

A. D.
1613, to
1615.

In these sessions, from one thousand six hundred and thirteen, to one thousand six hundred and fifteen, ten laws were made, which appear together in the statute book. One repeals certain restrictions against the Scotch settling in Ireland: a necessary consequence of the accession of a Scotch king to the English throne. Another extends the same privileges to all the inhabitants of Ireland: for, till this reign, it is plain, from sir John Davis's account, many parts of the island were not under the English jurisdiction; nay more, they were considered as inhabited by aliens, and enemies to the English government.

Another law enjoined that every inhabitant of a parish possessed of a ploughland, should furnish carriages and labour six days in the year, for making and repairing highways, when called upon by certain parochial officers, and in a manner and a certain season prescribed by that act.

This is the first road act which appears upon the Irish code; from the subsequent amend-

amendment of which, near a century afterwards, the present system of making roads in Ireland, so different from that in England, has been derived. This interesting subject I shall trace from its origin. To contemplative minds, the commencement of customs is most curious and interesting, since it usually assigns the true and genuine reasons upon which customs were originally grounded*.

S E C T.
IV.
A. D.
1613, to
1615.

The term Ploughland was so vague a definition, and such an uncertain possession, that the legislature, in the fourth, eighth, and

* It has been calculated, particularly by the late Judge Robinson, that a sum of not less than two hundred thousand pounds has been raised, upon an average of the last twenty years, for private roads in Ireland; a vast sum for that country! as the whole of the Irish revenues do not much exceed thirteen hundred thousand pounds *per annum*. A proposition was made in the session of 1777-8, to ascertain this annual charge, by returns from the proper officers to the house of lords; but after a long debate the order was discharged the next day, on the motion of the duke of Leinster.

S E C T. ^{IV.} ninth years of queen Anne, passed laws, by
 which grand juries were to decide upon
 questions relative to inhabitants of a parish
 being possessed of ploughlands, and to com-
 pel the exertion of the six days labour; and
 if this portion of labour should be insuffi-
 cient, they were empowered to raise a pre-
 sentment or rate upon the county, for mak-
 ing roads. The frequent applications to
 grand juries, to give due energy to these
 provisions, superseded in time, and virtually
 repealed those parochial regulations relative
 to the six days labour.

From this appeal, and this interference
 of grand juries, the present system of
 making roads in Ireland has originated;
 grounded upon, and improved by, subse-
 quent laws; by which grand juries are en-
 abled, upon the attestation of two or more
 credible witnesses in the neighbourhood,
 to present defective roads and communica-
 tions as nuisances; and to raise taxes or
 rates upon the barony or hundred, and in
 some cases upon the county, for their
 repair.

repair. This is done at the Lent assizes; and in the summer assizes, the overseers, who have been appointed by the grand juries, account before the judges of assize, for the faithful expenditure of the money which has been allotted for these purposes.

SECT.
IV.
A. D.
1613, to
1615.

This policy prevails only where tolls have not been appropriated, or turnpikes erected by local laws; and it has rendered the private and cross country roads much better; though the turnpikes, which are uncommon in Ireland, are much inferior to those in England.

To this system, thus shortly stated, the people of Ireland are remarkably attached, and prefer it to turnpikes; possibly it might be expedient to apply these grand jury presentments, to the repairs of the public or turnpike roads, to aid the tolls where they may be inadequate; and to give those applications for the repairs of public, a precedence and a priority to those for private roads.

S E C T.

IV.

A. D.

1613, to

1615.

In England, wherever the tolls are insufficient, parochial labour is applied to the repair of turnpike roads; and thus their roads are kept in constant repair. The commissioners are rigidly compelled to expend the tolls upon the roads; and shameful embezzlements are prevented, by the interested watchfulness of the vicinity.

It would be presumptuous to expatiate upon a subject which may hereafter engage the attention of the legislature: but, as materials are almost universally excellent and commodious in Ireland, and the private roads at present in very good condition, the application of this system to turnpikes, as above mentioned, would probably enable the people of Ireland, to make, to repair, and to perfect their public roads, and to render them as good as in any other part of Europe.

Having traced the principal transactions of the Irish parliament, from the ninth year of Edward the second to this period, we shall

shall now proceed to give a narrative of the life of the first duke of Ormond, who came into parliament in one thousand six hundred and thirty-four, when the next session commenced ; as the duke, either as a principal member, or as viceroy, was materially connected with the subsequent parliamentary transactions, before and after the Restoration.

S E C T.

IV.

A. D.

1613, to
1615.

THE
P R O C E E D I N G S
OF THE
IRISH PARLIAMENT,
From 1634 to 1666.

During the Life and Administration of JAMES BUTLER
the first Duke of ORMOND.

TO WHICH IS PREFIXED,
A NARRATIVE of his GRACE's LIFE.

Collected from Materials communicated by his Grace to his
Secretary, Sir ROBERT SOUTHWELL Knt., Minister
Plenipotentiary to the Court of PORTUGAL in 1667,
Secretary of State in IRELAND, and President of the
Royal Society.

Compiled from the Original Manuscript in the
Castle of KILKENNY.

THE
PROCEEDINGS
OF THE
IRISH PARLIAMENT,
FROM 1694 TO 1666.

During the Life and Administration of James Butler
the first Duke of Ormonde.

TO WHICH IS PREFIXED,
A NARRATIVE of his Grace's LIFE.

Collected from Manuscripts deposited by his Grace to his
Secretary, Sir Robert Southwell, Knt., Minister
Plenipotentiary to the Court of Portugal in 1667,
Secretary of State in Ireland, and President of the
Royal Society.

Compiled from the Original Manuscript in the
Care of Kilkenny.

PROCEEDINGS
OF THE
IRISH PARLIAMENT,

From 1634 to 1666.

CHAP. I.

The Life of JAMES BUTLER, *the first Duke*
of Ormond.

King's Weston, 8th September 1688.

May it please your Grace,

THIS goes to accompany a little map of CHAP.
a great country; I mean some short ^{I.}
memorials of your grandfather, which yet
take in the travels, employments, and some
accidents of his own life. I know no man
can fully write of what he acted and suf-
fered,

CHAP.
I.

ferred, without engaging in a chronicle : for he was fifty-five years in councils and business, which comprehend all the last age ; and it sometimes requires a new age to speak truth of the old.

However, it is certain, what I have gathered, and now send, must be the root of all those branches, whenever they are displayed.

Had I sooner thought of this work, it had been more ample and exact ; and though it may probably receive additions by what papers I have, and what farther I may hear of, yet it is certain much of this had been lost for ever, if I had not, in time, consulted him alone who was able to inform me.

Your Grace should be perfect in these few sheets ; because every man is a debtor to his family, and ought to know it. There are some touches of your illustrious father, and I am still at work, if you think fit, to make them many more ; and, I hope, my
son

son will be as busy hereafter to cast up the
 good works of your Grace: for, the truth
 is, you are put under great obligations to
 serve the world by those patterns that are
 gone before you. And you must not think
 it severity to make this become yet a harder
 task and duty upon your son, my lord of
 Offory; for, virtue is an extensive business,
 and in this agrees with the finest gold:
 both of them will stretch as far as one
 would have them.

CHAP.
 I.

There are some truths in the writing I
 send, which may offend others, and there-
 fore it is wholly intended for your own
 sight; at least it will shew, that I honour
 your Grace, and that I shall not be sorry to
 see you excel those you come from, who,
 in their time, excelled most others.

I am, in all duty,

My Lord,

Your Grace's most faithful

And most obedient servant,

To the Duke of
 ORMOND.

ROBERT SOUTHWELL.

CHAP. I. *Some domestic Information, touching the Life of JAMES, the late Duke of Ormond, who died at Kingston Hall in Dorsetshire, on Saturday the 21st of July 1688, in the 78th Year of his Age, and was interred at Westminster on Saturday the 4th of August following.*

Also, a few Notes of some Ancestors who preceded his Grace, as of his Children and Posterity.

[Taken by one who was honoured with a long acquaintance, and with his Grace's frequent discourses about familiar things.]

HIS Grace was the twelfth earl of the family in the title of Ormond, and the seventh of that name of James.

The ancient name of the family was Fitz-Walter, and the name Butler (as history relates) came first from the office of being chief butler of Ireland to King Henry II.

It

It was in his reign the kingdom was CHAP.
conquered, and by his grant the prizage ^{I.}
came; which remains in the family, and 1172.
affords a considerable revenue at this day,
and is a mark of the share they had in that
conquest.

Theobald Fitz-Walter, lord butler of
Ireland, had a son Theobald, who was also
lord of Carrick, and one of the justices of
Ireland in 1247, which was the 31st of ^{1247.}
Henry III.

To him succeeded a third Theobald; and
to this, a fourth Theobald; and to this,
Sir Edmond, lord butler of Ireland, who
was also made earl of Carrick in 1316, ^{1316.}
which was the 9th of Edward II. But
this title has not been used in the family,
nor does the reason of its disuse appear:
he was lord deputy in 1312, and lord
justice in 1314*.

* This earldom is older than that of Kildare. Lord
Ormond has the original patent among the duke's
papers at Kilkenny.

CHAP.

I.

1328.

This Edmond earl of Carrick was father to James, who, in the second of Edward III. 1328, did marry Elinor, the daughter of Humphry de Bohun earl of Hereford, and lord of Brecknock by his wife Elizabeth, who was the seventh daughter of king Edward I. And it was the same year, the second of Edward III. that the said James was made earl of Ormond, the king being then at *Nottingham*. And this James is often called also earl of Tipperary, because of his palatinate there.

His son was James, second earl of Ormond, and styled the noble earl, as being great grandson to king Edward I. He was thrice lord justice of Ireland, and is named first of all the temporal lords in the parliament rolls.

James the third earl succeeded next, who was also lord justice; and to him James the fourth earl, who also was lord justice; and, according to Stowe's Survey of London, died at Ormond Place near Garlick Hill London, in 1428.

His

His son James was the fifth earl, who was also by king Henry VI. made earl of Wiltshire in England.

C H A P.

I.

1449.

He was lord treasurer of England, and knight of the garter. He was five times lord deputy, and lord lieutenant of Ireland, and had a patent thereof for twelve years.

1451.

This James earl of Ormond and Wiltshire had for his second wife, Elinor Beaufort, eldest daughter of Edmond duke of Somerset; with whom, and with the said duke's son, he closely adhered to the house of Lancaster, and had a share in that fatal battle of Towton in Yorkshire, where thirty-five thousand men were slain, and king Henry VI. with his queen forced to fly into Scotland.

1461.

He was taken prisoner at Newcastle, and there presently beheaded without any trial; and was, in the same year, the 1st of Edward IV. afterwards attainted. That battle was fought on Palm Sunday, being the 29th of March 1461.

CHAP.

I.

}

1461.

This James left no son, and had only two brothers, sir John Butler the eldest, who not brooking the title of Edward IV. went to the Holy Land, and there died.

Sir Thomas, the second brother, did, after the death of king Henry VI. and of his son Edward, submit to Edward IV. and so was by him restored in part, yet lived quietly and privately till the time of Henry VII. in the first of whose reign the attainder was taken off by act of parliament; and he was fully restored to all, except the title of Wiltshire; which was never borne by any but by James V. and was probably entailed on the heirs of his own body, and so terminated by his death without issue.

1492. This Thomas earl of Ormond, (the first of that name,) was of the privy council to Henry VII. and by him sent ambassador into France, and had place in the English parliament above all the barons.

He had only two daughters, lady Ann the eldest, who was married to sir James Saint

Saint Leiger; and lady Margaret the other, CHAP.
to sir William Bullen. He died in 1515, I.
leaving a treasure of forty thousand pounds 1492.
in money, besides jewels; and also these
daughters carried away as much English
estate from the family as may now be worth
three thousand pounds *per annum*: yet
something was left at Greenwich and Dept-
ford till the time of earl Thomas Duff, great
great uncle to his late grace, who sold it.

Sir Pierce Butler was third cousin to the
said Ann and Margaret, and there being no
heir male nearer, he succeeded to the title
of earl of Ormond, which he held for about
twelve years, viz. to 1527; and was twice
lord deputy of Ireland. He married Mar-
garet, sister to the earl of Kildare, a woman
of great endowments; and this reconciled
those two great families, who had been
mortal enemies, and fought several battles
against each other.

The said sir William Bullen had a son
sir Thomas, who was father to Anna Bullen,
that was married to king Henry VIII.

CHAP.

I.

1527.

Her father, sir Thomas, was made earl of Wiltshire, as in the right of the lady Margaret his mother: and affecting also to be earl of Ormond, the king obliged sir Pierce Butler, being then at Windsor, to quit that title*, and to accept that of earl of Ossory; by which he became the last earl of Ireland, instead of being the second.

But, in ten years after, sir Thomas dying, and his son being attainted, the earldom of Ormond was restored to sir Pierce in 1537, and confirmed by act of parliament in Ireland in 1541 †, together with the ancient precedence, and with retention also of the title of Ossory.

To this Pierce earl of Ormond and Ossory succeeded his son James, who was the sixth of that name; he was admiral of Ireland

* Of this resignation of titles there appear to have been many instances in ancient times; but, upon the case of viscount Purbeck, in the reign of Charles the second, the lords of England decided, that no fine could be levied to bar the descent of a peerage.

† This act was probably lost in the great rebellion, like many others; as it does not now appear upon the code.

and

and lord high treasurer there, and in his father's lifetime created viscount Thurles in 1535. CHAP.
I.

1535.

This James was poisoned at his steward's house in Holborn, and his steward also and many more, he being then about fifty years old, but the cause was never discovered. His wife was Joan, daughter of James, tenth earl of Desmond.

His son Thomas, (commonly called by the Irish, for being a black man, Thomas Duff,) succeeded to be earl of Ormond and Ossory. He was favoured by queen Elizabeth, who, by her mother Anna Bullen, had relation to his family. He had the garter, was made lord high treasurer of Ireland, and general of the forces there; and is first named in the parliament rolls, of all the temporal lords.

He left no sons, but he had several brothers, as sir Edmond, John, and others.

Anna Bullen being grand-daughter to the lady Margaret Butler, this caused queen Elizabeth,

CHAP. I. Elizabeth, who was her daughter, to regard
this earl Thomas as in some relation to her;
1558. she made him knight of the garter, one of
her privy council in England, lord treasurer
in Ireland, and general of the forces there.
He had strong abilities and great courage,
and bore up beyond any other against her
favourite the earl of Leicester; so as often
to tell her majesty in plain terms, he was a
villain, and a coward. The queen would
chide, and tell him he was mad, but he would
still have the last word, in speaking boldly
and loudly against that earl of Leicester;
who, on the other side, did him ill turns;
which, he not being able to brook any
longer, he desired his friend sir Nicholas
Poynts of Acton in Gloucestershire, a gen-
tleman then of much consideration in court,
to carry the earl a challenge. Upon which
sir Nicholas made him this answer:—"Sir,
" this man will not fight, but he will cer-
" tainly poison you." And it fell out ac-
cordingly; for earl Thomas, soon after the
challenge was rejected, had poison given
him: and it was by great strength of nature,
which

which assisted what the doctors could think of, that he at last overcame it.

CHAP,
I.

1583.

His first wife was a daughter to the lord Berkly of Berkly castle, reputed an heiress, since her brother was a fool and thought impotent.

The earl of Leicester proposed to him to buy his expectation of that estate: "No," said earl Thomas, "for then you will not fail to poison the fool."

He having no children by this wife, married a daughter of Edward lord Sheffield, (whose title is now Mulgrave,) by whom he had a son that died young, and a daughter, the lady Elizabeth. Her he married first to his brother sir Edmond's son, his own nephew, who was Theobald, made viscount Tullough: but he dying without issue, she was afterwards married to sir Richard Preston, a Scotchman, much favoured by king James, and made lord Dingwall in Scotland, and earl of Desmond, viscount, and baron Dunmore in Ireland.

These

CHAP.

I.

}

1601.

These two had no other children but a daughter, who was the lady Elizabeth, and who came afterwards to be duchess of Ormond.

Earl Thomas last mentioned was blind for about twelve or fourteen years before his death, which he imputed to his overstraining by sea-sickness. Yet he married after he was blind the widow of the lord Power in Ireland. She was daughter to the lord viscount Barrymore; and to her he left a jointure of four thousand pounds *per annum* at Clonmell.

This lady, his widow, was after married to sir Thomas Sommerfet, then master of the horse to queen Anne of Denmark, who raised enough from that jointure to purchase Badminton from one Butler.

This sir Thomas was great uncle to the now duke of Beaufort. He had by that lady, his wife, only a daughter, who never marrying, left Badminton in Gloucestershire to the present duke.

The

The said earl Thomas gave with his said CHAP.
only daughter, who was married to sir I.
Richard Preston, the lands which were not 1614.
entailed, being then set at eight hundred
pounds *per annum*, but now worth above
four thousand pounds *per annum*.

John, the third brother to this earl Thomas, was (by the death and miscarriage of sir Edmond's other sons) the next heir. He married a daughter of MacCarthy Reagh; but happening to receive a wound, he languished a year, and then died at the age of twenty-four years (his uncle still living). But he left his son and heir, sir Walter Butler, who afterwards succeeded the said earl Thomas, and was grandfather to his late grace *James* duke of Ormond.

Earl Thomas was twenty years old at the death of Henry VIII. He lived to the age of eighty-seven, and died in 1614, in the 12th of king James, at which time James (late duke of Ormond) was about four years old, and was often in his arms,
and

CHAP. and cherished by him, so as to retain a
I. perfect remembrance of him. Sir Walter
1614. came then, by his uncle's death, to be earl
of Ormond and Offory. He married Ellen,
daughter of the lord MountGarret; and
the eldest son he had by her, was *Thomas*
viscount Thurles.

This Thomas married Elizabeth, daughter of sir John Poyntz of Acton in the county of Gloucester, a lady of high virtues and great beauty, but happening to have no portion, his father was for some time offended at the match.

Great suits and contentions arose between earl Walter and the earl of Desmond; and Thomas viscount Thurles, going for England in the prosecution of the cause, was cast away near the Skerries in 1618, he being then about thirty-three years old, but his body was afterwards found and buried at Kilkenny. And it was very near to the same place that his antagonist, the earl

earl of Desmond, was drowned about ten years after in 1628.

CHAP.
I.

1618.

But this viscount Thomas left three sons and five daughters. His second son, John, died at Naples in his travels; his third son is colonel Richard Butler of Kilcash. His daughters were, the lady Muskerri, afterwards countess of Cloncarty; the lady Hamilton; and the third was first married to colonel Purcell, afterwards to colonel Fitzpatrick; one to sir Andrew Aylmour, and a second that died young: but the elder son was James, late duke of Ormond.

He was born on the 19th of October 1610, at Clerkenwell in London, in the house of the now duke of Newcastle, which was then inhabited by sir John Poyntz, his grandfather. He was nursed at Hatfield, (by a carpenter's wife,) where he remained till he was three years old. His father and mother went over to Ireland before, and continued for some time at Ahaddah, near the river of Cork, in the house of Mr. Anthony Southwell,

CHAP. (grandfather to sir Robert Southwell,) where
 I. the countess of Cloncarty was born, anno
 1618. 1612.

They then sent for him over, and he could well remember, at the age of seventy-eight years, his being carried in his nurse's arms through the city of Bristol, and what he noted upon the bridge. But whether he went directly thence to his father at Ahaddah, or to the old earl Thomas, then at Carrick, or to his grandfather Walter at Kilcash, was quite forgotten by him. Only he could well remember his being often carried to the old earl Thomas, his great uncle, and how he was cherished by him in his arms, and upon his knee, and the circumstances also of his long beard, and his being blind, and the wearing of his George about his neck*, whether he sat up

* From some portraits in the reign of Elizabeth, it appears that the ribbon and ensign of the garter were suspended from the neck:—this fashion was changed to the present mode, in the time of king James the first; and this peculiarity in his grandfather's dress, naturally struck a child's observation, and remained in his memory.

in

in his chair, or lay down upon his bed; CHAP.
 for, although earl Walter was for some time I.
 so displeased with his son's match as that 1618.
 their two families lived not together, yet
 earl Thomas was well satisfied with it, in
 memory of the friendship of sir Nicholas
 Poyntz, who was ready to have ventured
 his life for him *, and the displeasure of the
 queen in the quarrel aforementioned against
 her favourite, the earl of Leicester: besides,
 he knew the quality of the family, which
 had been called by writ as barons in par-
 liament, (which is noted by Dugdale,) and
 that they had been seated for near four
 hundred years at Acton; in which time
 there had been twenty-two descents, hav-
 ing married one Acton, the heiress of that
 family, who had been there from the time

* This circumstance is a curious proof, that, in
 early times, a second, if necessary, became an affo-
 ciate, and engaged in the combat. As names should
 change as customs and institutions do, the French
 term these attendants upon those who are engag-
 ed in single combat, *Temoins*, or witnesses; and not
 seconds.

of

CHAP. of the conquest. Also the son of fir
 I. Nicholas, who was fir John Poyntz, was
 1618. well known to him at court, where the
 charge of squire of the body to the
 queen, which he had, was then of such
 account, that his estate of five thousand
 pounds *per annum* was thought to be less
 than others had, who held that office be-
 fore him.

1618. *James*, the late duke, after the drown-
 ing of his father viscount Thomas, was,
 by courtesy, called viscount Thurles; and,
 being about nine years old, was by his
 mother brought back into England. She
 placed him at school with one Conyers, a
 Roman catholic, at Finchley, near Barnet.
 But, in a short time after, by order of king
 James, he was sent for from thence, and
 placed with the archbishop of Canterbury
 (Abbott), where he was but very indif-
 ferently maintained by his grace; very
 little schooling bestowed upon him, and no
 sort of allowance from the king, or from
 home:

home: for then the whole estate was under
sequestration, and extended, as shall be
explained.

CHAP.
I.
1618.

He remained five or six years with the archbishop. But then he removed to his grandfather earl Walter, who now lived in Drury-lane; and it was but very lately he had been enlarged from an imprisonment of eight years in the Fleet.

This severity, and the sequestration of his estate also, fell upon that earl, and this to a degree of most shameful want, which he endured; and all because he would not submit to an award made against him by king James in favour of the earl of Desmond. It was, indeed, so very harsh and unreasonable, that when afterwards the king was farther pressed in that matter, he made answer to his Scotch friends, That he had done too much, and that if ever he looked into that matter again, it should be to unravel a great part of what he had done. It was during this imprisonment

CHAP. that a *Quo warranto* was brought against his
 I.
 county palatine of Tipperary, which had
 1618. been three or four hundred years in the
 family; and upon his *Nilil dicit*, it was
 seized into the king's hands, and so conti-
 nued till 1663, when it was, by king
 Charles II. not only restored, but also
 enlarged.

His grace's grandfather, earl Walter, be-
 ing now very old, never troubled him in
 the matters of religion, in which he was
 bred under the said archbishop; nor was
 he in those days very much at home with
 him, being one of the chief sparks of the
 town, scarce ever failing either the court or
 the playhouse. And he was then also ac-
 quainted with, and a great admirer of, all
 the good actors of the stage.

1628. When the duke of Buckingham was
 going upon his expedition to the relief of
 Rochelle, his lordship resolved to have a
 share in that action, and was gotten to
 Portsmouth to embark with the rest; but
 3 the

the duke asking him if he had his grandfather's consent, and finding he had not, he forbade him to go. But the next day the duke being stabbed, he posted back to London.

CHAP.

I.

1618.

It was in this scene of his life, or rather about six months after, he saw at court his kinswoman, the lady Elizabeth Preston; for, upon her father's being drowned, (as he was about this time,) she fell in wardship to the king, and his majesty bestowed her upon the earl of Holland, the groom of the stole.

This lady was born the 25th of July 1615, which made her near five years younger than my lord; and though now scarce fourteen, yet she understood much of the contentions that had been, and of the ruin that might attend the family on both sides. She liked also my lord so well, and the earl of Denby's son so little, (who was designed for her,) that the young parties were soon resolved on the matter. This

CHAP. being suspected, the king called to my lord
 I. Thurles, and, with some concern, admonished him not to meddle with his ward.
 1618. My lord replied, That he never saw her any where but in his majesty's court, where all paid respect unto her, and he, having the honour to be her kinsman, thought he might do the same as well as others; but if his majesty would forbid him his court, he would refrain it. "No," said his majesty, "I do not command that."

1629. In Christmas 1629 they were married, and in four days after, they went down to Acton. But his lordship was constrained to pay no less than fifteen thousand pounds to the earl of Holland, in consideration of her wardship.

There fell out three great accidents in the space of a year, which removed the impediments of this match. The first was the death of the duke of Buckingham, who had concerted it with sir Richard Preston, the earl of Desmond, that this lady, his daughter,

daughter, should be a wife to one of his
 grace's nephews, a son of his sister then
 married to the earl of Denby; and in order
 hereto, the patent for earl of Desmond,
 viscount Cullen, and baron Dunmore, was
 so framed, that, in case sir Richard Preston
 had no issue-male by this lady, then those
 titles were to descend to the nephews of
 that duke in the house of Fielding, as it is
 at this day.

CHAP.

I.

1629.

Thus that great duke came engaged in
 the quarrel against the house of Ormond,
 and sat very heavily on them while he fa-
 voured the earl of Desmond.

The next accident was the drowning of
 this earl of Desmond, and the death also
 of his lady, which happened all in about
 the space of time aforementioned.

My lord continued at Acton for about a
 year, in which time it was that he learned
 from his chaplain all the Latin he had.
 And it was while he lived in London, and

CHAP. I.
 1629.
 conversed with the Irish, that he learned the most he had of that language; which, though he understood perfectly well, and could readily speak it in familiar things, yet he never had it to that degree as to venture upon business, or serious matters in it: for, in the following wars of Ireland, when the Irish bishop of Clougher came in to serve the king as general of the Ulster forces, my lord spoke always in English, and the bishop always in Irish, so as they perfectly understood each other; and the like in occasions of like nature with others.

Earl Walter and his lady had, for some few years, been gone into Ireland; and, about the end of 1630, my lord and his lady went over and lived with them at Carrick till they both died, which fell out in two or three years after.

Earl Walter lived to the age of seventy-three or seventy-four, a big and corpulent man, valiant and of high stomach, as appeared by what he suffered rather than submit.

submit. He was accounted in his time the strongest man in the kingdom; as all his ancestors had also been remarkable for bodily strength in their several generations*.

C H A P.

I.

1630.

It was about 1631, that his grace purchased a troop in the standing army of that kingdom, and for fifty-seven years after he never wanted one there, as long as the crown had any. Near this time it was he came over to solicit the court in a matter of

1631.

con-

* The revival of the earldom of Ormond in 1791, and the restitution in blood of John Butler, Esq; the present earl, turned upon the following question:

James, the second duke of Ormond, was attainted by two acts; one of the English, and another of the Irish legislature.

The question before the house of lords of Ireland was, whether the second act in 1715-16, extended only to the forfeiture of the property of the said duke, or whether it affected the titles also? Upon this latter point, the house decided that it did not; and consequently that the claimant of the premier earldom, (John Butler Esq.) who descended from Walter the tenth earl of Ormond, according to the following pedigree, (which was duly proved,)

P 4

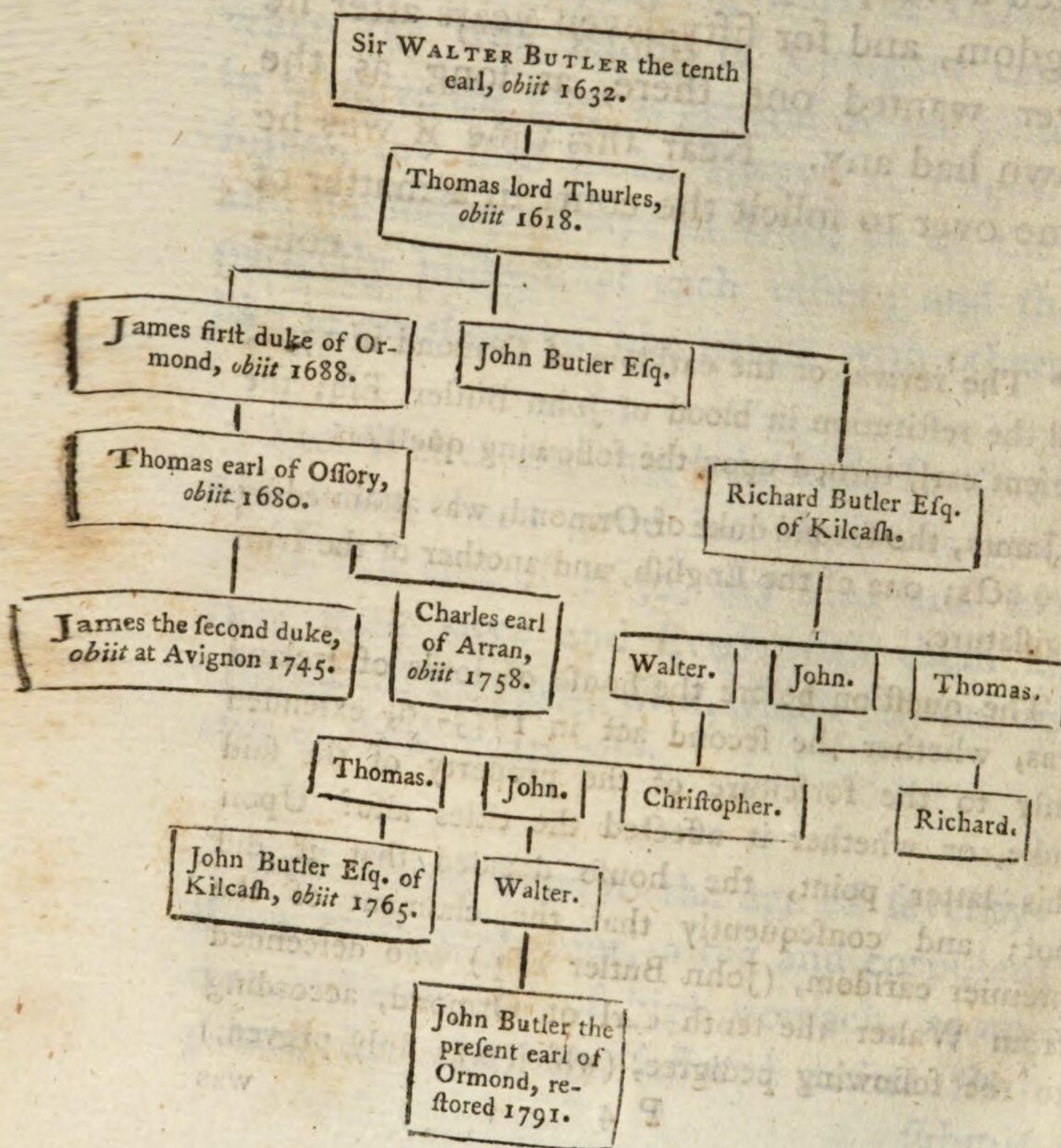
was

CHAP.
I.

1631.

confiscation due to his majesty, and which might have turned to his own advantage, had it took success. He went first to the north

was legally invested, and the rightful heir of that title.



north of Ireland, and from Donaghadee CHAP.
 failed to Port Patrick in Scotland, which I.
 he did in two hours and a quarter; and 1631.
 having seen part of the country, and there
 visited his lady's relations as he intended,
 he rode from Edinburgh to Ware in Hert-
 fordshire in three days, and could well
 have been at London that night, but that
 he sent a servant before to provide for him
 the next day. He was so little sensible of
 any fatigue hereby, that, meeting books in
 the room, he fell to read; and about the
 dead of the night, lighting on the *counter-*
scuffle, which he had not seen before, it
 put him into such a strain of laughter, that
 the landlord and his wife started out of
 their sleep as half-amazed at what the mat-
 ter might be.

His lordship staid near a year and a half 1633.
 on his occasions in England, in which time
 his grandmother died. He then returned
 for Ireland a little before the going over of
 the lord deputy Wentworth, and leaving
 London upon a Saturday in September at
 four

CHAP. ^{1.} four in the morning. He had only two
1631. horses on the road, and got that day so
early to Acton, as to send to Bristol, being
eight miles farther, and to receive answer
from the captain of a ship, called the Ninth
Whelp, which then lay ready in King
Road, that the wind was extremely fair,
and that by eight the next morning he
would certainly set sail.

His lordship got up early on Sunday,
and was on board by eight, where, first
making a hearty meal, he went to sleep,
and slept eleven hours in one stretch.

The ship set sail by nine, and had so
prosperous a gale, that, by nine next morn-
ing, they ran up to Waterford, and his
lordship getting horses from sir Robert
Welch, whom there he met, he rode six-
teen miles to his house at Carrick, and
there dined that same Monday at three of
the clock.

The lord Wentworth, afterwards earl of
Strafford, was made deputy of Ireland in

1633.

1633. He afterwards called a parliament, CHAP.
which was held in the castle of Dublin, I.
and issued a proclamation, that none of the 1634.
members, either peers or commons, should
enter with their swords; so the black rod
stood at the door of the lords' house to
take the swords. As my lord of Ormond
came in, he demanded his; but, it being
refused, the black rod shewed the procla-
mation, and made some rough reply. My
lord told him, that if he had his sword it
should be in his guts; and so marched on
to his seat, and was the only peer who sat
with a sword that day. At this the lord
deputy took fire, and called his lordship at
night to answer for it. His lordship shewed
his writ, which called him to parliament
cinctus cum gladio. Upon this answer, the
deputy and his two friends, sir George
Ratcliffe and Mr. Wandesford, sat in con-
sultation, whether to suppress or oblige so
daring a spirit; but, sir George voting for
the latter, they resolved thereon. And in
a while after, his lordship being now about
twenty-three years of age, was admitted to
be

CHAP. I. be of the privy council, and had such a
share in the deputy's favour, that when
1636. the deputy was in 1636 in England, and
gave to the king and council a long narra-
tive of the state of Ireland, he, having
occasion to speak of the earl of Ormond,
sets him forth thus: "One likely to prove
" a great and able servant to the crown,
" and a great assistant to his religion, and
" to the civil government." It was in the
year 1639, that the lord deputy, being
made earl of Strafford and lord lieutenant,
and raising an army of nine thousand men
to go against Scotland, he made the earl of
Ormond lieutenant general of the horse.
Soon after which, the parliament of Ire-
land fell to clamour and accusations against
the earl of Strafford, and the commons
sent their complaints to the parliament of
England against him. But the earl of
Ormond was his champion in the house of
lords to that degree, and did so divert,
contend, and even wrangle for him till
midnight, that there could be conjunction
of those lords with the house of commons;
and

and what they did afterwards alone, came CHAP.
not till the trial of the said earl was over. I.

It was in gratitude and remembrance here- 1639.

of, that one of the last requests the earl of Strafford made to the king was, that his garter might be given to the earl of Ormond. And his majesty did offer it accordingly; but the earl generously made this answer, that it was then a time of danger, and that since such a gift might tie some other to the crown, who, by principles, was less resolved than himself, he begged his majesty to bestow this garter as his service required, and to reserve his bounty for him till all the dangers were over: so he had no garter till 1649, when it was given by king Charles the second. In October 1641, the rebellion of Ireland broke out, and in November following his majesty sent his lordship a commission to be lieutenant general of the whole army under the earl of Leicester, who was declared lord lieutenant though he never went over.

1641.

In

CHAP. I. In April 1642, his lordship obtained a
1642. signal victory at Kilbrush over the confederate Irish; for which even the parliament sent him a jewel of one thousand pounds value.

It was in August of the same year, also, that his majesty sent him the title of marquis. His majesty was then setting up his standard against the parliament at Nottingham: it being before noted, that, from the same place, king Edward III. had sent the title of earl of Ormond to the family about
1643. three hundred years before. In 1643, he had commission to make cessation with the confederate Irish; which he did in September that year, and which so turned the parliament against him, as they voted him from all employments in the three kingdoms.

1644. In January 1644, he was, by his majesty, made lord lieutenant of Ireland.

1646. In July 1646, he made a peace with the confederates, which, at the instigation of the

the pope's Nuncio and clergy, was violated CHAP.
to that degree, that they compelled him to I.
surrender Dublin to the parliament. It
was on the 27th day of July 1647, that 1647.
he surrendered to the parliament; and,
quitting Ireland, he sailed with his family
to Bristol, and so went to Acton to Sir
Robert Poyntz, his uncle, in Gloucester-
shire.

From thence, at the end of August, he
was allowed to see his majesty, then pri-
soner at Hampton Court, and to give him
the state of affairs in Ireland. He re-
turned to Acton, and hearing, in February
after 1648, of a warrant given out by the
parliament to seize him, though against
articles, he slipped away for France, cross-
ing the country to Hastings in Suffex, and
so to Dieppe; he went thence to Paris in
the beginning of March, there to attend 1648.
the queen mother, and the prince.

His lady following him with her two
sons and three daughters, landed on the

CHAP. 23d of June 1648, and she took habitation
 I. at Caen. Thither the marquis resorted as
 1648. often as his attendance on the queen
 mother, and the prince of Wales, and his
 present business at Paris, did allow; for
 there he met agents from the confederate
 Irish, imploring to have the king's autho-
 rity sent over to prevent the confusion
 grown up among themselves, which en-
 dangered the loss of all to the parliament.

This concurred with orders his lordship
 had received from his majesty while yet in
 England; namely, to pursue what he and
 the Scotch commissioners, who had a pri-
 vate meeting with him, should think best
 for his majesty's service. And it had been
 agreed, That he, on his part, should engage
 Ireland, as they would Scotland, for his
 majesty's defence.

He staid in France to solicit those aids
 which were necessary to the work in hand,
 and whereof hopes were given him; but
 the affairs of France were now so embroiled
 that

that nothing at last could be had, so that CHAP.
when he landed at Cork in the end of I.
September 1648, he had but thirty French 1648.
pistoles in his pocket.

He took Caen in his way, to bid farewell to his family, from whence he purposed to ride post down to the ferry, opposite to Havre de Grace; for there a Dutch ship attended him of forty-six guns, sent by the prince of Orange for his transportation. But having rode the first stage to Dreux, he there met the master of an half-decked cyder boat that was laden, who promised to convey him that evening to his port: so, having got a new book which he desired to read by the way, he and his servant went into her; for the rest were all gone before. But the wind fell so cross as they were all night on the water; and when towards morning it blew high, and the master was at a great loss, he asked the marquis what hour it was by his watch. The marquis, impatient to be on shore, told him an hour later than indeed it was;

CHAP. but by this mistake the master so miscounted
 I.
 1648. his tide, that he ran upon the flats, and his
 boat was split, and the marquis escaped in
 the cock boat, till that he drew so nigh, as
 that men waded in to take him on their
 shoulders to the shore; and it being on a
 Sunday morning while all people were at
 church, they wanted those helps which
 otherwise might have saved the man's
 cyder boat. But afterwards his lordship
 passed without any accident to Cork; having
 only for company on board, the lords
 Mountgarret and Castlehaven, and Daniel
 O'Neile.

1649. In some months after his arrival, and in
 the year 1649, his majesty king Charles II.
 sent him the garter by the hands of Mr.
 Henry Seymour, one of the grooms of his
 bedchamber. On the 17th of January,
 he concluded a second peace with the con-
 federates (such as it was) at Kilkenny;
 and gathering up an army composed of the
 differing parties, and such who had before
 been drawing the blood of each other, he
 6 marched

marched to the siege of Dublin: but his friends not rising in that city as he expected, and new succours being just then arrived from England, he was, in August 1649, defeated at Rathmines, which was the first defeat he ever had. From which time forward the confederates' clergy grew so mutinous, and did with excommunications so distract those that adhered to him, that he was forced at last to deposit the government in the hands of the marquis of Clanrickard, who was of their own religion; and so the marquis was a second time constrained by them to quit the kingdom.

CHAP.
I.

1649.

It was on the 11th December 1650, that he embarked at a creek near Kilcolgan in Connaught, in the Elizabeth of Jersey, a very small privateer. But after a tempestuous voyage of eight days, natural to that season of the year, he landed at Perose in Basse Bretagne. He had with him on board, the lord Inchiquin, colonel Wogan, with forty other officers, besides other passengers; which throng of men, and all appear-

1650.

Q 2

ing

CHAP. I. ing to be well armed, upon the deck, prevented their being taken by a privateer of
1650. Ostend, that met them in the bay of Biscay.

At their entering Perose, the ships in that harbour fired at them, till, by putting out their yawl, it appeared they were no enemies. And the seas having run mountains high, the shore was not unwelcome to them.

There was a large Dutch ship called the Seven Stars, that sailed at the same time they did, from near Kilcolgan with sir George Lane, and a great number of others, besides his lordship's attendants, that got safe to another port of France. But there was another vessel that had sailed a while before them, with some servants of his lordship's, which was lost. She was commanded by captain Bacon, who had also on board some of his majesty's goods, sent over when his majesty had thoughts of passing into Ireland. But this captain, intending
now

now to run for England, was cast away CHAP.
 at Scilly. From Perose my lord went di- I.
 rectly to his lady at Caen, and very soon 1650.
 after to attend the queen mother at Paris,
 for the king (Charles II.) was, in June pre-
 ceding, gone from Breda into Scotland; and
 most of his old servants were forbid by the
 Scots to attend him.

As his majesty went from Jersey to Breda,
 to meet the Scotch commissioners, he stopt at
 Beauvois in France, where the queen mother
 went from Paris to meet him, and there
 they stayed for about a week together. My
 lady marchioness went then from Caen to
 attend the queen in that journey, and went
 also at another time from Caen to Paris to
 pay her duty to her majesty.

My lord having performed to the queen 1651.
 what was necessary as to the state and affairs
 of Ireland, (for he still retained the title of
 lord lieutenant,) he returned to Caen, and
 there continued till October 1651.

CHAP.

I.

1651.

His majesty had marched with an army from Scotland as far as Worcester, but being defeated by Cromwell the September before, he now, as by a miracle, escaped from Bright-helmstone in Suffex, and landed near Dieppe in France. His majesty got soon to Paris, and the marquis got soon after him, and was there, in a while after, made one of the gentlemen of the bedchamber.

1652.

After some convenient time, his lordship returned back to Caen, and was there for the most part with his family, till they could hold out no longer; upon which my lady and her children did, in the summer of 1652, pass over to London, there to solicit the parliament for some subsistence for herself and children, out of that large part of the estate which had been her own inheritance. At length she procured some orders to that effect, and after above a year's stay there, leaving her children in London, she went for Dublin to solicit the effect of those orders.

This

This happening to be in 1653, while the lord Muskerry (who had married her lord's sister) was on his trial there, she had an opportunity of doing him great service; for she secretly visited the lord chief justice Lowther, who had high reverence for her, and he dictated to her what that lord should plead, and how to answer every thing that should in public on his trial be objected against him; for he himself was judge in the high commission court, and those directions had a very happy effect.

CHAP.

I.

1653.

After my lady had stayed about two years in Ireland, and procured the lands in Dunmore for her subsistence, she went back to London to bring over her children, and this was in 1655.

At this time, my lord of Ossory was with other lords by the usurper clapped into the Tower.

1655.

My lady sent down the rest of the children to Acton, and my lord Ossory falling

Q 4

ill

CHAP. I. ill of an ague in the prison, her ladyship
 did in October obtain his enlargement.
 1655.

In the spring following my lady went with him to Acton, from whence she sent his lordship and his brother the lord Richard to Holland, and her ladyship and the rest went to Ireland, living at Dunmore, planting the park, and improving that place; and so saw not her lord the marquis, from their parting in France in 1652, till June 1660, that she came over, when his majesty was happily restored.

But to return to France: In 1654, there began a treaty of peace between France and the usurper, by which his majesty found it necessary for him to leave that country. So he went from Paris on the eighth of July, passing directly to the German Spa*. There he met his sister the princess of Orange;

* The arms of Charles the second are still to be seen at the Cornet, a lodging-house at the German Spa, on a board, dated 1654; which were given by him according to a usage long established, and which still prevails among the princely visitors of those springs.

and

and after a month's stay in that place, they CHAP.
all went to Acan, where they stayed above I.
a month longer, and then his majesty went 1655.
to Cologne, the marquis perpetually attend-
ing him.

The French pretended in some sort to sweeten this disrespect to his majesty, by adding two thousand crowns a month to the queen mother's allowance, meaning it should by that circuit come as a pension to the king; but it came very lamely to him.

It was in December of that year, that my lord was by his majesty sent from Cologne to Paris, it was said to prevent the industries used to turn the duke of Gloucester from his religion, and he was to bring the duke to his majesty.

Sir George Hamilton bore his lordship company in that journey. This he effected in the beginning of 1655 (the manner of it is written by sir William Dugdale, in his history of the troubles of England, p. 437). He conducted the duke first to Antwerp, where

CHAP. I. where his highness fell ill of a dangerous fever, but being recovered they went safely to his majesty at Cologne.
1655.

Soon after this, in the spring, the marquis went to the Hague, and did from thence attend the princess royal to Cologne; it was in this journey the weather proving hot, he went to swim in the Rhine; while in the absence of his servant, two countrymen carried the boat which had his clothes in it to the other side; he swam over and got the boat again, but in setting her back, the stream carried him so far down that he was put to his shifts.

From Cologne his majesty, the princess royal, and the duke of Gloucester, went all to the fair at Francfort, and the marquis attended them; and it was in the way back to Cologne, that his majesty met and had a conference with Christina queen of Sweden.

While his majesty was at Cologne, he had much private conference with Peter Talbot, and dispatched him in a very secret affair
to

to Madrid. Some have since said, it was to impart to that king, his assent to the Roman catholic religion. This certainly followed, that his majesty did this summer, 1655, pass *incognito* to Brussels, where a private treaty was concluded with Don John of Austria, then governor of Flanders, that all his subjects in the French service or elsewhere abroad, should go into the service of Spain; upon which his majesty was presently paid three thousand crowns a month, when perhaps in a whole year before he had not received two thousand pounds from all his friends in England.

CHAP.

I.

1655.

His majesty was, for the more private management of this affair, to pass to Bruges, and there to reside; as he did. The duke of York being still in France, and knowing of the secret capitulation, did, while yet there, dispose some of the chief Irish officers to it. He himself came to his majesty about the end of September; for though he had bravely served the French in quality of lieutenant general in their armies, yet the articles

CHAP. I. articles then, after long treaty, concluded
1655. with Cromwell, obliged the French to exclude the king and all his relations and adherents from the French dominions.

In this year also of 1655, was there war declared between Spain and England.

1656. In 1656, there were made up five or six regiments of those his majesty's subjects, which were either found in the Spanish service, or which were tempted from that of the French. These were much more numerous, and all Irish; who, indeed, forsook very good conditions which they enjoyed in France, and of these regiments the marquis of Ormond had one.

The French court were vexed at this desertion of the Irish, and they imputed the loss of St. Ghislain to some ill-dealing of their officers that were tempted away; and cardinal Mazarine ventured, by a letter he wrote to the bishop of Bruges, to lay this to the industries and influence of the marquis;

quis; who, in truth, never had any meddling in it: for it was the earl of Bristol, and sir George Lane, who managed with his Irish relations all that in this matter was done. But the marquis made answer by letter also, which was afterwards printed; in which, having vindicated himself, he tells the cardinal, among other things, of this chasing the grandson of Henry IV. out of France, and his servile cowardice to gratify the English usurper, &c. The cardinal's enemies did much celebrate this letter; and the truth is, the marquis had such a talent both in writing and speaking, as but very few of the age exceeded him in either.

CHAP.
I.
1656.

The French and Cromwell being now in such close conjunction, a strong body of English, under Reynolds and Morgan, was sent over to join the French; and the Irish did some services with the Spanish army; which the former, though all were drawn out, could not prevent; and it was in September 1657, that, among other things, they

1657.

CHAP. they took the fort of Mardike; which was
I.
but an ill presage for Dunkirk.
1657.

Here the marquis had his horse shot dead under him, which don John of Austria soon made good by the present of a noble Spanish horse in the room thereof. However, it was this, and other like accidents which had befallen him, and the consideration of throwing his life away in the Spanish service without benefit to his king and country, that put him upon thinking how to expose and how to employ it to better purposes. He considered how that, by all advices sent over to his majesty from his friends in England, they seemed to want nothing so much among them as some person of consideration and credit with his majesty, to conduct their designs; and, having resolved upon this matter, he frankly offered himself to his majesty for that service; representing, that he would pass over in disguise, and know the utmost of what could be done; that, if things were ripe for action, he would be at the head thereof; and if they grew successful to such a degree

degree as might invite the great men of the land, such as the marquis of Hertford, the earl of Northumberland, or others, to come in, who might scruple to be commanded by him, he would resign and serve under them: at least, he should be able by this expedition to let his majesty know how to estimate the reports which came so constantly to him, and to govern his affairs accordingly.

CHAP.
I.
1657.

This generous overture could not but please his majesty, though he had great reluctance at the dangers that attended it.

This design was only imparted to the duke of York, the lord chancellor Hyde, and the earl of Bristol; and he took instructions with him for all events.

To disguise this undertaking and departure from his majesty, a pretence was framed of some business in Germany, and sir Richard Belling went as his lordship's secretary.

Being

CHAP.

I.

Being gotten as far as Cleves, sir Richard was sent on to keep up a formal correspondence, while the marquis slipped down into Holland, where he met Daniel O'Neile; and they together embarked, and, in January 1658, landed at West March, seven miles below Colchester.

They kept together as far as Chelmsford, and there parted; but my lord getting to London, met sir Philip Honeywood, and was there conducted by him to proper places for his concealment, and to the parties who were proper to be spoke withal. He first chose to meet those of inferior rank, and who boasted loudest of what they could do, not so much in their own persons, as by great men they had credit withal, and friends in their respective counties.

The first meeting was in an upper room of an apothecary's near the old Exchange*,

* Probably Exeter Change.

where

where about eight of them were met by the appointment of sir Philip, who then told them, here was a gentleman that he undertook for; that he was going to the king, and was most fit to tell his majesty how all things stood, and therefore desired that every one of them would expose the utmost of what they and their friends could undertake for in the great work. But they, on the contrary, unanimously refused to speak out in so dangerous a point till they might see a person of credit from his majesty, as they had so often and so earnestly desired.

CHAP.
I.

1658.

Upon this the marquis discovered himself unto them: but to their no little surprise; for when he pressed to have a true state of what every one could do, their discourses were so uncertain, and their hopes so incoherent, that he saw plainly he had little more to do than to return from whence he came, and to make his escape.

However, parting with them, and giving such encouragement for their zeal as was

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R

fit,

CHAP. I. fit, he had another meeting with men of a
1658. higher rank, and such as were relied on by
his majesty; as colonel Ruffel, sir Richard
Willis, colonel Villiers, colonel William
Legg, and others. He met them once in
Bedford Garden, where colonel Ruffel had
lodgings; and another time in Gray's Inn,
where sir Richard Willis had lodgings.
And although some of these gentlemen
had before given his majesty more hopes
than there was ground for, yet now they
owned the difficulty of doing any thing;
and sir Richard Willis (not then suspected)
was most of all copious in the impediments
that lay against them.

There had, indeed, been some hopes of
obtaining the surrender of Hull, but sir
Harry Slingsby, for his tampering with
Overton in that matter, was afterwards be-
headed; and yet the marquis, upon the
encouragement given, was once directly
going to that place.

At length, he being fully convinced of
the emptiness and impossibility of what
called

called him over, he told these gentlemen, and such others as he had conversed with, that sir Philip Honeywood should know where to find him, when he could be useful; so, after about a month's stay in London, he did, by the help of Dr. Quatremaigne, a physician, get on board a shallop near Shoreham in Suffex, from whence he arrived at Dieppe, and so by Rouen to Paris. Here he stopped, and lay concealed from the 12th of February to the beginning of April, in all which time he had no letter from them. Whereupon, taking his journey by Lyons, Geneva, the Palatinate, and Holland, he came at last to his majesty at Bruges.

CHAP.
I.
1658.

He took this circuit, because, by Cromwell's influence, who had notice of him, all the frontier was made unsafe and dangerous; and thus ended that enterprize. As for the smaller adventures that attended it, they need not be remembered, because the whole adventure failed. However, some of them were as follow:

R 2

My

CHAP.

I.

1658.

My lord had with him to West Marsh only his servant Maurice, who had like to have spoiled all, by his exposing, in the room there allotted them, the conveniences for night, which were in the port-manteau; but there being no bed fit to go into, and the weather being extremely cold, my lord sat up all night at shuffle-board with four maltsmen of Suffolk. He had a good hand at that sport, and drank warm ale with them until morning. He then went to Colchester, but left Maurice to return back with letters; and he and Daniel O'Neile kept together to Chelmsford, as was said, and then they parted. My lord wore a green hat-case on his hat, and a night-cap on his head; he had his port-manteau behind him, and all other things were made suitable thereto. His first lodging in London was at a surgeon's in Drury Lane; who, though a papist, yet, having good skill in his trade, his neighbours were kind to him. After a while he began to suspect the inconvenience of the place, and asked his host, over a pint of sack, if he
had

had no hiding-place in his house for a CHAP.
priest. "No," said the man, "for my I.
"house is very often searched, and so are 1658.
"all the houses in two or three streets
"about us." Hereupon my lord presently
paid his landlord, and went to a French
taylor's in the Black Friars; and that very
night was the surgeon's house searched,
and all the houses of the neighbourhood.

His lordship had also a strong alarm
once given him at midnight in this new
lodging. But it only proved to be the
workmen that ran hastily up stairs to carry
away their work before Sunday morning;
for Sunday was then kept extremely strict.
However, he was just escaping out of the
garret window that led over the houses of
another street; for the first care he ever
had about his lodging, was to see what
back ways there were for a retreat.

In the next place he never went into a
bed while he was in England, but lay in
R 3 his

CHAP. his clothes that he might still be in readi-
I.
ness to escape.
1658.

After this, he took another lodging in Old Fish Street, where he was most secure. His landlady had been, in her younger days, a servant at court, and she could drink sack as well as her husband.

He went by the name of Pickering, and in the character of some discarded officer: and, upon his complaining to colonel Legg that a peruke was troublesome to him, and but an ill disguise, the colonel gave him a mixture to make his own hair black; but the aquafortis was so powerful in it, that it not only put his hair into a variety of colours, but it scalded his head, and gave him much trouble. It is affirmed, that sir Richard Willis had discovered his arrival to Cromwell, but on condition not to seize him; lest he himself should be discovered by it, and so for ever be made useless in any future service.

While

While the marquis was at Paris, he lay CHAP.
 in private at the Feuillans * in the Fau- I.
 bourg St. Jaques, where his two sisters, 1658.
 the lady Clancarty and the lady Hamilton,
 had their quarters; and when he left Paris,
 he took with him his second son, the lord
 Richard, who had been there, and they
 rode in three days to Lyons, which is one
 hundred and four leagues, and his lordship
 was then forty-eight years old.

While he stayed a few days at Lyons,
 he called at a shop to have his peruke
 mended. The master was decrepit both in
 hands and feet, but said he could direct his
 sister to mend it as it ought to be; so, the
 marquis, taking another peruke from him,
 went to gaze in the streets. By chance he
 stepped into the next church, where he saw
 a chapel therein which was hung with the
 presents of several votaries who had re-
 ceived cures from our lady. Among the
 rest, he found an inscription, as well as an

* This place is now famous for a meeting of a
 club of demagogues, some of whom are members of
 the National Assembly.

CHAP. offering made by the very man (the peruke
I. maker) he had left; so when he asked him
1658. the next day about it, and wondering why, being still a cripple, he should do so, the man answered, he thought he was better than he had been, and hoped that, by doing honour to the lady beforehand, he might the sooner enjoy the rest.

His majesty, while he resided in Flanders, was wont to make frequent sallies into neighbouring parts, and often to see the princess royal, his sister. He was at Hokestrate, four hours* or miles from Breda, when, in September 1658, he heard the news of Cromwell's death.

It was here, even at this time, whispered, that the king had a great kindness for the princess Mary, who was third sister to the late prince of Orange, and that she also was as much inclined to be a queen.

* In Holland, the distances are measured by what they call hours, which are somewhat less than English miles.

Her eldest sister had been married to the elector of Brandenburg, and the next sister to the prince of Friezland.

CHAP.

I.

1658.

In 1659, the earl of Offory was married at Bois-le-Duc to the lady Emilia, eldest daughter of the Heer Beverwart.

1659.

In the month of May of this year, there had been a suspension of arms between France and Spain, in order for a peace to be treated of at Fontarabie; and his majesty, in hopes to make some advantage thereof, by persuading those two crowns, when at peace, to engage in his restoration, did, in the month of August after, depart from Brussels towards that place. But, for the greater privacy of his journey, he went directly to Calais, and so to Boulogne and Rouen, the marquis and some few others attending him.

From Rouen his majesty sent the marquis to the queen mother at Paris to advise upon this affair, and also concerning the

CHAP. the motions then in England; for there
 I. were tidings of sir George Boothe's rising
 1659. at this time. His majesty went on to St. Maloes, where the marquis came post unto him, bringing from Paris the unfortunate particulars of sir George Boothe's total defeat.

So, his majesty having no other hopes than what might arise from the said treaty, he hastened by Rennes, Nantes, and Toulouse, and from thence over the Pyrenean hills, to Saragossa in Arragon, where he made some short stay.

The marquis was left at Toulouse to expect the coming of cardinal Mazarine, in order to dispose him to good resolutions for his majesty; but he, taking another way, the marquis went on about a week after by Berne and Bayonne to the place of treaty, where sir Henry Bennett*, his majesty's minister, was disposing all things, and especially on the Spanish side, for his

* Afterwards lord Arlington.

majesty's coming. And accordingly, when
 the season was thought proper for it, the
 marquis went thence as far as Toulouse to
 meet his majesty, now advancing to Fonta-
 rabie.

CHAP.
 I.
 1659.

The treaty was concluded in November between these two crowns, but it contained nothing for his majesty's advantage or restoration; this being a blessing which God had reserved to himself, and to effect it by his own subjects, without any obligation to strangers.

Hereupon his majesty, with the marquis and others of his train, returned in a direct line to Brussels, which was about Christmas 1659; only his majesty staid at Colombe near Paris for about two or three days with the queen mother.

It was in the January following his majesty sent the marquis into Holland to the old princess of Orange, to propose a match for his majesty with the lady Mary,
 her

CHAP. her third daughter, and one of the aunts
I. to the present prince of Orange. But the
1659. old princess had so little hopes of his majesty's change of fortune at that time, though it so suddenly followed, and of which the marquis laid before her all the probabilities he could urge, that she excused the matter on her being wholly under the protection of the States General, and that all things of that public nature ought to begin with them. This lady Mary was afterwards married to the count of Embden, and proved the fruitful mother of many children.

The marquis being returned with this cold answer to Brussels, his majesty had intimation, by Thomas Howard, the youngest brother of lord Carlisle, that his brother-in-law, sir George Downing, then resident at the Hague, would be glad to have a private conference with any person whom his majesty much trusted, and wished it might be the marquis of Ormond; so, in February after, the marquis went again to the Hague, where

where sir George, meeting him in secret, told him, how, that, by the course and revolution of things in England which he well observed, his majesty must suddenly be restored; that whatever any particular undertakers might pretend to them, it would be, in truth, the work of the whole nation; that they could no longer bear the tyrannies they lay under, and, by seeing no other cure of their evil, the calling home of his majesty was irresistible. He shewed various grounds for this opinion, and only prayed, that, for the good news' sake, of which probably he was the first informer, he might find favour hereafter; so far as to live only in peace and quiet, for he should pretend to no more*.

CHAP.
I.
1659.

The marquis returned to Brussels with this account to his majesty; and, from

* For this service, sir George Downing was continued in his embassy after the Restoration. Upon his being asked, which of the two systems or governments he liked best, his answer was most candid and ingenuous: "*Je suis le tres humble serviteur des even-*
"*nements.*"

that

CHAP. that time forward, every week gave new
 I. instances of hope, though often inter-
 1659. mingled also with great allays. But after
 general Monck had allowed sir John Gren-
 ville, now earl of Bath, to confer secretly
 with him, and sent his mind to his majesty
 by him to Brussels, there was steady hope,
 and a sort of beatific vision of all that
 followed.

General Monck was now his majesty's
 oracle in all things; and he then advising
 his majesty with all speed and dexterity to
 get out of the Spanish dominions, his
 majesty went quietly from Brussels to Ant-
 werp, and from thence, getting out on horse-
 back as to take the air, being attended by
 the lord Richard Butler, (afterwards earl of
 Arran,) his majesty bid him spur on apace,
 for it imported him much to be soon at
 Breda; and it was about the end of March
 1660. 1660, that his majesty (and his court soon
 after him) got there. This advice of the
 general's came originally from the Portugal
 ambassador then in London, Francisco de
 Melo, who afterwards was marquis de
 Sande;

Sande; who, seeing that by the Pyrenean peace his country must be ruined if England did not prevent it, he had to that end actually signed a treaty with the powers then newly displaced. Whereupon, finding that the general was now become the centre of all power, he wrought so into him, as to make the Spaniards no less formidable than if it had been in the year eighty-eight. He affirmed, that, if the king should be called home, the Spaniards would constrain him to surrender Dunkirk before they would let him get out of their hands.

CHAP.
I.
1660.

Bishop Russel, who had served in that embassy, and who for that cause was made a bishop, told me all this, and how they had even, before his majesty came over, possessed the general of the advantage of marrying the Infanta of Portugal to the king; the high consideration of Tangier and Bombay that should be given; the free trade of all their dominions, besides some millions of cruzadoes. The bishop added, that they had, in like manner, engaged and

6 secured

CHAP. I. secured to them Mr. Morrice (the then
 1660. confidant of the general); and so it accordingly fell out: for, when he came to be sir William Morrice, and secretary of state, though but a private gentleman of the northern provinces, yet all the following treaty of marriage ran through his hands and office. And the bishop affirmed, that it was actually the general that first proposed this match to his majesty, although the articles were afterwards managed, and carried on, by the lord chancellor, who, therefore, had the whole credit of it.

(This is inserted here as a short memorial of a truth which else might be forgotten.) But now to proceed—It was in the beginning of May his master was proclaimed king in London, and soon after he embarked in the fleet sent for him, and he arrived in
 1660. England the 29th of May, the day of his nativity.

The marquis now, after ten years banishment, (besides what he suffered before,) takes
 his

his share in this happy return with his master, which was in the fiftieth year of his age. CHAP.
I.
1660.

And now the storms of adversity being over, a new tide of happiness, honors, and employments, flow in; he is made lord steward of his majesty's household; high steward of Westminster, Kingston, and Bristol; lord lieutenant of the county of Somerset; and chancellor of the university of Dublin. And whereas the county palatine of Tipperary was in his grandfather's time forfeited to the crown, as hath been observed, which then did not extend to the whole county, his majesty granted now the restitution of it, and to comprehend the whole county, as it afterwards passed by act of parliament in 1663, to which his lordship gave the royal assent*.

In July after the restoration, he was made earl of Brecknock, and baron Butler of Lan-

* This palatinate was totally extinguished by the act for the attainder of the late Duke, the second of Geo. I. chap. viii.

CHAP. thony in England; and on the 30th of
^{I.}
March following, duke of Ormond in Ire-
land; and in April after, he carried the
1660. crown at his majesty's solemn coronation.
The joy of that season was not a little in-
creased, when in June 1660 his lady came
to him from Ireland, and that he met also
at his majesty's court, the earl of Ossory and
his lady, with her father from Holland;
his second son, the lord Richard, who was
next year made earl of Arran; his third,
the lord John, afterwards earl of Gowran;
and his two daughters; the lady Elizabeth,
who was soon afterwards married to the earl
of Chesterfield; and the lady Mary, who,
in October 1662, was married to the pre-
sent earl of Devonshire.

The suddenness of this happy change
could not but raise and augment the joys
thereof; and had there been leisure to re-
flect on ancient times, and compare the
fortune of the family in its present state,
with what had formerly passed, it wanted
but one day of two hundred years from
the

the time that James the fifth earl of Ormond and Wiltshire lost all by the fatal battle in Yorkshire aforementioned, and that this James, the seventh earl of that name, was made a duke.

CHAP.
I.

1660.

In November 1661, his grace was declared lord lieutenant of Ireland. There was then an act in preparation at the council board, for the settlement of Ireland, where things not going on to colonel Talbot's * mind, in reference to some of his friends and countrymen, he came very daringly to tax his grace therein; and it looked so like a challenge, that his grace meeting his majesty, desired to know if it were his pleasure that at that time of day he should put off his doublet to fight duels with Dick Talbot: upon which the colonel was sent to the Tower until the heat was over.

1661.

There were at the council board great hearings in the month of March, and afterwards before his majesty, between the agents for the English and the Irish, touching the

* Afterwards duke of Tyrconnel.

CHAP.

I.
1661.

1662.

whole frame of the Act of Settlement: it was at last solemnly concluded to the dissatisfaction of the latter, whose behaviour in the former rebellion was sorely exposed. The seal being affixed thereto, all prepared for Ireland, for there was a great concourse of the nobility and gentry of that kingdom attending their concerns, who all, with the seven English commissioners appointed to execute the said act, made up his grace's train towards Dublin, in a most splendid and superlative manner. I went there, and observed that in every county as he passed, the lord lieutenant met him, and all the militia were drawn forth, and he arrived at Dublin on the 27th of July 1662, being the day of the same month in which he had been compelled to deliver up the government of that place to the commissioners of the parliament, Mr. Arthur Annesly and others, just fifteen years before. Doubtless never any great man had more the lustre of his prince's favour than he had from the restoration to this time; and all things relating to that government (which he himself thought fit to meddle withal) were so entirely

entirely devolved and thrown upon him, that it is hardly possible to imagine more confidence between a prince and his subject. This is only noted here, in order to compare it with future things, and to show how it was in the power of some instruments, and on the credit of their principles, to be favourably heard, and to make his future progress uneasy to him. When the leaves seemed mostly to flourish, then were there worms that lay secretly gnawing at the root of the gourd.

CHAP.

I.

1662.

His reception at Dublin, by the resort of all persons of note from every part of the kingdom, and a parliament then also sitting, was some kind of epitome (for the splendor of it) with what had been lately seen in England at his majesty's happy restoration.

In October following, his grace went to Kilkenny, and, at the end of this month, the lady Mary was at Dunmore married to the

CHAP. lord Cavendish, now earl of Devonshire, as
I.
was said before.
1662.

There was during the whole stay at Kilkenny, such a throng, and more especially of the relations of all sorts in this ancient and capital seat of the family, now most magnificently adorned, that, considering the late banishment, desperation, and confusion, that had been among them all, it is not possible to figure a greater earthly joy than what appeared then in the faces of every one, and whereof I was a witness.

However, nothing that is very shining has in this world any long stability; for, in the month of May following, some fanatics being highly discontented to see so much of their land decreed away to the Irish, and apprehending that more would follow, they fell into a dangerous conspiracy against the government, and his grace's life; but being happily discovered, some were taken and executed. But one Blood, a great ringleader therein, made his escape.

Yet

Yet these were not the only enemies his CHAP.
grace then had, especially after the declara- I.
tion issued in December 1662, for liberty of 1662.
conscience. There was a secret faction in
court of quite different inclinations from
those aforementioned: they had their hours
of access, and a great share in the king's
affections; and among these, some were no
less dissatisfied that the Irish got so little of
what they expected by his majesty's resto-
ration. They did not consider that by
his majesty's declaration from Breda, and
the declaration afterwards in November from
Whitehall, and the present act of settlement,
that many must fall short, both in lands and
preferments, and of that pomp in reli-
gion, which they so aspired unto: yet,
as if his grace were accountable for all their
disappointments, they insinuated every thing
to his disadvantage, sparing not invidious
papers and queries on the method of his
government; and at length they made a
property of the then earl of Meath, a pro-
testant, to draw up some articles, and it
served their turn to have copies thereof dis-
S 4 perfed,

CHAP. I. perfed, though they were never prefented to the king.

1663. His grace did in December fend over to court his brother in law, the earl of Clancarty, to ftruggle for him. I was then in the yacht with him, where we had a difmal ftorm of twenty-eight hours. But when his lordship came to London, he found it not much calmer; the things were grown too hard for him, fo that his grace faw it neceffary for himfelf to come over, as he did in April 1664.

1664. It is true, he had two ftrict friends that he left behind, who were the lord chancellor Clarendon, and the lord treasurer Southampton; who, though powerful in many things, yet they found themfelves very weak in others; and it is certain that when they were all together, they prevailed moft; for they were fubftantial proteftants, firm to the church of England, and had the chief regard of the nation; and fo alfo of his majefty's judgment,

ment, and deference in all solemn things CHAP.
 which had reference to the government, and I.
 that needed support. 1664.

His grace left the earl of Offory lord deputy behind him. The duchefs had come over some time before, and prepared for his reception at Chelsea. And in September after, the earl of Arran married the lady Mary Steward, the only surviving issue of the late duke of Richmond. And it was in this month also, that his grace recommended me unto his majesty's service.

His grace stayed in England till the month of August 1665, during which time 1665.
 the Act of Explanation, which was to supply defects in the Act of Settlement, was in framing. It began at Whitehall, but by reason of the great plague in London, as his majesty removed, it was carried on at Sion House Hampton Court, and afterwards finished at Salisbury, where it was put under the great seal.

And

CHAP.

I.

1665.

And now his grace having had time, with the conjunction of his two friends, the lord chancellor and lord treasurer, to restore and confirm his interest, and to consider of all things among themselves, he parted with his lady from Salisbury towards Ireland, there to attend the execution of this new act, which he carried with him for the farther settlement of the kingdom.

But, as they had the contentment to hear of the birth of a grandson in their absence from Ireland, James, son to the earl of Ossory, born at Dublin castle on the 29th of April 1665, so were they disconsolate at the death of the lady Chesterfield, who died the July after.

On the eleventh of April 1666, the earl of Ossory, was sworn of his majesty's bed-chamber; in June following, his lordship was also sworn of the privy council in England.

In

In September following his lordship was CHAP.
I.
called up by writ to the house of peers in 1665.
England, by the name of Baron Butler of More
Park, which was a feat in Hertfordshire,
purchased by his grace in 1663, for about
twelve thousand pounds, but afterwards sold
again to the duke of Monmouth. In May
1667, died the lord treasurer Southampton,
by which his grace lost a friend of the first
rank. In July after, died the lady Arran at
Dublin, and she was interred at Kilkenny,
with all that pomp that her birth, her
beauty, and the memory of her virtues de-
served.

While the commissioners of the court of
claims sat to execute the Acts of Settlement
and Explanation, there were signal instances
given by his grace, and at the council-board,
of favour towards the deserving Irish, as
often as any fair opportunity offered for it.
Notwithstanding which, upon new com-
plaints in court against him, for defects in
this and other kinds, his grace found it ne-
cessary,

CHAP. cessary, in April 1668, to come over again ;
I. at this time also he left the earl of Ossory
1668. lord deputy, and his lordship held that station until July 1669, when the lord Roberts took the sword as lord lieutenant of Ireland, the kingdom being then settled, and in profound peace as well as plenty.

To shew how the scenc ran at this time, it is best to observe what went before, in the ruin of the lord chancellor Clarendon.

Those who, in court as well as parliament, applied themselves to this work, not finding his majesty so easy as they wished, but knowing the peculiar ascendant the duke of Buckingham, whenever he was admitted, had over him, they made the duke's peace, who had then absconded, and did procure his pardon for the earl of Shrewsbury's death, whom he had killed in a duel. This duke either found or made all things easy, and whoever furrounded his majesty before, they put all their cards into his hand to play the game they desired.

And

And the duke of Ormond being too closely joined in principles as well as friendship with the lord chancellor Clarendon, he was next to be disgraced.

CHAP.

I.

1668.

They wounded him in his majesty's opinion to that degree, that in May, on his approach to London, several friends and their coaches having prepared to meet him, my lord Arlington told me those things did but help to inflame the displeasure against his grace, and he could not better express his respect to the king, than by saying nothing of that sort of reception. However, when he came to Whitehall, his majesty gave him a civil though cold reception; yet neither then, nor ever after, did he object any thing to him, or ever require any account of things from him; which was so much the worse, as leaving it to himself to divine his faults, and not giving him particulars whereon to work his justification. That only wherein his grace's enemies found most of open credit with his majesty, was on the topic of expence, and the want of due economy, though even herein he never could see any formal accusation,

CHAP. I.
 1668. fation, but they gave encouragement in this and other things unto unquiet heads, to rake together all that might bespatter him.

In this agitatorship, the earl of Orrery, who, by his grace's indulgence, had, in a manner, governed every thing, and been vastly obliged by him, proved a most industrious enemy, deluding himself with hopes of the government, whilst those who set him on work never intended any favour to presbyterians, save only as they might be tools to remove his grace; which was the most plausible, as well as the most secret way of doing their own work. The whole intention of sending the lord Roberts, was but to find out mal-administration, and to expose it; so that his grace's enemies, being now stronger than they hoped, advanced in confidence of a surer game. They presently turned out the lord Roberts also, as not framed to their purposes; so he was there but from July 1669 until the April following. But it was soon after his grace's arrival, which was on the 6th of May, that I had the honor one morning early to walk with him

him in the Pall Mall*. There he discoursed freely on the vicissitudes of fortune; how often it had befallen him to be employed when things were most difficult; how his employments had still been flung upon him; how, when he thought his actions were most justifiable, they commonly found the hardest interpretation. "Well," said he, "nothing of this shall yet break my heart; for, however it may fare with me in court, I am resolved to lie well in the chronicle."

CHAP.

I.

1668.

His grace remained for several years after in court, under great eclipse, and great mortifications; but, having a peculiar talent of bearing misfortunes with an invincible patience, the bye-standers thought this to be the most glorious part of his life; and this was the very expression of his grace archbishop Sheldon to me on this occasion. However, in this state, he spared

* Pall Mall was then one of the alleys in St. James's Park, planted in 1668, and so called from a game which was played there.

CHAP. not to be chiefly instrumental to get the
I. Irish innocents discharged from their quit-
1668. rents, and to free them also from satisfying
the demands about the lapse-money *, &c.
and to contribute in every thing to do them
justice, notwithstanding their animosities
against him.

The archbishop of Canterbury, Dr. Sheldon, being old and infirm, but full of respect to his grace, resigned his chancellorship of Oxford; whereupon the University, (as he desired,) casting their eyes immediately on the duke of Ormond, elected him, in August 1669, their chancellor; they were willing to testify herein some resentment of his grace's hard usage at court, and he was installed at Worcester-house, where all things passed with magnificence; and I there heard him make a remarkable speech to the University.

* Lapse-money was a sum of money deposited, which, if the purchase of lands was not completed by a certain time, was to be forfeited, by the Act of Settlement.

The

The prince of Orange came into Eng- CHAP.
land, and being invited on the 6th of ^{I.}
December to an entertainment in the city 1670.
of London, his grace attended him; but,
as he returned in a dark night towards his
home at Clarendon-house, he was assaulted,
and almost affaffinated, by that traitor
Blood, and five of his accomplices. But
though mounted by them on horseback,
yet he delivered himself by his valour and
presence of mind almost to a miracle,
though they left him for dead. There
then issued a proclamation, with a thou-
sand pounds reward, to seize those male-
factors; and although in the month of
May following, this same villain (*Blood*)
attempted to steal the crown, and was
taken with it, yet he was pardoned, and
had favour and a pension given him;
which is a mystery that few can decypher
to this day.

I have seen this miscreant perpetually at
Court, and, as it were, affecting to be in
some room where his grace was, to the in-

CHAP. I.
 1670. indignation of all others, though neglected and overlooked by his grace. I remember when it was told his grace that he was taken, and that his majesty desired to see him, "Then," said he, "the man need not despair; for, surely, no king should wish to see a malefactor, but with intentions to pardon him *."

It was in April 1670, that John lord Berkeley took the government of Ireland, and that sir Ellis Leighton, being made his secretary, took, as was said, the govern-

* The duke of Ormond was stopped by Blood, and his accomplices, in the Haymarket, which was then a cross country road, of which the quarter was very high, and the coach being low and the windows large, he, by main strength, drew him out of the carriage, and placing him before him on the saddle, he carried him towards the gallows at Tyburn, where, as was said, he designed to hang him. When they got to Devonshire House, which was then called Berkeley House, the duke struggled and rolled off the horse into the mire of the road, where he was found almost lifeless by lord Berkeley's porter, the villains having fled upon the alarm which was given to the servants.

ment

ment of him. Sir Ellis was also a great favourite of the duke of Buckingham.

CHAP.
I.

1671.

At this time much favour was extended to the Irish, and orders given for their admission to inhabit and trade in all corporations. And in January following, colonel Talbot, being employed in an high agency from the Roman catholics of Ireland, appeared at the council board, and bid fairly for the overthrow of the Act of Settlement. The earl of Anglesey was gained to be an instrument in this work, to the admiration of all, but those who knew him. But here his grace did so strenuously and so daringly oppose their attempts, and was so warmly assisted by the then attorney general, sir Heneage Finch, that they declined the board, and drove on their design clandestinely under the authority of a special commission to the duke of Bucks, the earl of Anglesey, and others; and sir James Shean for their secretary.

His grace was not only left out, but his friends chiefly brought in question, and

CHAP. the unravelling of all his fortune was in-
 I.
 tended by it. This gave so great an alarm
 1671. to all the English, that in time the house
 of commons took cognizance thereof; and
 upon their address to his majesty, the com-
 mission was suppressed, and all the papers
 and proceedings thereof delivered up by
 fir James Shean to the council board.

In August 1671, one Edward Purcell,
 an Irishman, did not only give out he
 would kill the duke of Ormond, but, in
 effect, said as much in a petition that he
 delivered to the king. On this, he was
 by warrant sent to the Tower, and from
 thence, in November after, to Bedlam, where
 he was visited by three of his grace's ene-
 mies, then great at court. But being
 cured, he was, for a while after, kept in
 Newgate, and from thence permitted to go
 beyond sea.

On the 4th of September, Mr. Charles
 Butler, second son of the earl of Ossory,
 was born at Carew House in London.

It

It was on the 14th of March following, that sir Robert Holmes fell upon the Dutch Smyrna fleet. The earl of Offory there commanded a frigate, but his grace was much offended at his share in that action, while others magnified his courage; for there was then no declaration of a war, nor till the 28th of the month after. But the earl was the hero of the court, and prodigal of his life, on all occasions.

CHAP.
I.

1671.

In May 1672, he was made rear-admiral of the Blue, and sir John Narborough was his captain.

1672.

He attempted, in the fight they had, to single out admiral De Ruyter's ship, which he did. But this great commander did, afterwards in Holland, tell the story to the earl of Arlington, saying, that he saw some daring English spark come towards him to get honour, but his business being not to fight, but to keep others to it, he fairly took to his heels. However, the earl did so well elsewhere, that, when he came to

CHAP. court in September, his majesty not only
I. gave him the blue garter, but sent him
1672. then down to command the whole fleet at
the Buoy de Nore, in the absence of prince
Rupert.

The lord Berkeley stayed in Ireland from April 1670 to August 1672, in which time the Dutch war lay heavy on us; nor had his majesty any supply, but what he stopped in the exchequer when that war began. And the declaration for indulgence was interpreted to be in favour of popery; so that, to reconcile the parliament, and to get some supply, the broad seal was torn from that declaration, though few knew it was done at the instance of the French king our ally. But this produced money, and some other councils than those formerly taken; and amongst them, that of naming the earl of Essex for lord lieutenant of Ireland, as a very plausible choice on the other side: so he went to his government, though with no great favour to the interest of the duke of Ormond.

In

In June 1673, the earl of Arran married Dorothy, daughter of Mr. Ferrers of Tamworth in Staffordshire, and was by patent created lord baron of Weston in Huntingdonshire in August after; so that the father and two sons sat together in the house of lords in England, and with two blue ribands.

CHAP.

I.

1673.

In April 1674, the lady Thurles, mother to his grace, died at Thurles, being eighty-six years of age.

1674.

His grace had now, for some years together, tasted the inconveniency of court coldness, and of London expence, which were uneasily born at once. He had not failed to pay punctual attendance on his majesty's service at Whitehall, where it was, in truth, very melancholy to see him pass the galleries with his white staff all alone; which I have twenty times observed, and as often left all other things to wait upon him, and to join in smiling sometimes at the variety of the scene.

T 4

Upon

CHAP. I. Upon the whole matter, he was now preparing to retire to his own habitations in Ireland; and I can hardly better set forth his situation, than in his own words to his majesty, being part of a letter I have found of his grace's writing, since his death;

“ It is about a year since I begged your
 “ majesty's leave to go to Ireland, which
 “ you were pleased to give me; but the
 “ war being then in the heat, and there
 “ seeming to me a possibility that, in some
 “ conjuncture, I might be of some use to
 “ your service, I delayed it; but now that
 “ you have a peace, and have given a long
 “ recess to the parliament, I have so far
 “ presumed upon the permission you then
 “ gave me, as to prepare for that journey,
 “ as soon as the season will permit.

“ It is now six years since I came over
 “ last, a great part of that time I have
 “ passed more uneasily than I made shew
 “ of, or than I ever thought I should do
 “ in your majesty's court and presence;
 “ having

“ having had many reasons to make me CHAP.
 “ believe your favour was at least very I.
 “ much abated towards me. The circum- 1674.
 “ stances were too many, and too little
 “ pleasing to me, to reckon them up ; but
 “ they were such as seemed to evidence to
 “ the world, that it was rather the remem-
 “ brance of some old service I had en-
 “ deavoured to do the crown, than any
 “ thing else, that preserved me from the
 “ uttermost disgrace due to a faulty and
 “ insignificant person. How grievous
 “ soever this was to me, I have borne it
 “ with duty, and more temper than I am
 “ naturally master of, &c.”

The truth is, besides the main defect in
 his grace in that fundamental of his reli-
 gion, he was almost as faulty in two other
 things, which the humour of the court
 could very ill brook at his hands.

The first was, his want of complacency
 in all times to those ladies whose influence
 had still been very great. The next was,
 a very

CHAP. a very cold deportment towards the French
 I. interest; and any of these three were mis-
 1674. fortunes enough to a courtier.

Monfieur Rouvigny was once fo frank as to complain to his grace himfelf why he appeared fo cold, while every one elfe admired his mafter. His grace made this answer, “ That he thought his mafter the
 “ greateft king that France ever had. That
 “ he governed a nation warlike and obe-
 “ dient to him; men of fenfe, and fo well
 “ bred, that he ever thought even their
 “ civility was formidable.”

While this tedious feafon of difavour lafted, I took notice, in the beginning of it, he would fmilingly fay to thofe who foli- cited his help in court, “ I can do you
 “ no great good; I have only power left to
 “ do fome hurt.” But, in progreff of time, I faw even that teft fpoiled, and that no man, or his bufinefs, fared the worfe in court for his grace’s oppofition; they, in a manner, fared the better for it: yet ftill
 his

his enemies were most incensed that all these mortifications did not humble him, nor, on the other hand, drive him to offend the king, or to fling up his staff, or to partake with the disaffected. It is certain he naturally hated all intriguing and intriguers too. He would say, he was like an old clock that lay rusty by, yet, once in twenty-four hours, even that pointed to the true hour of the day, and it might prove so with him. In June 1674, his grace went with his family from Clarendon House to Kilkenny; and, while in Ireland, he went the same year to Dublin to visit the earl of Effex, lord lieutenant, who gave him a reception scarcely worth his journey. His excellency had then more regard to please the earl of Danby, lord treasurer, and the lord Ranelagh, and other friends of the earl of Orrery, than to afford much ceremony to the duke of Ormond.

In January after, his grace's third son, the lord John, married the lady Ann Chichester, only daughter to the earl of Donnegal.

CHAP.
I.
1674.

CHAP. Donnegal. He was made earl of Gowran;
^{I.}
and went soon after to Paris for his health,
1674. and died there in August 1675.

England and Holland had, by the mediation of Spain, made peace in February 1674, but we left France (our ally) hot in pursuit against Holland. It was about November 1674 his majesty sent over the earl of Offory, and the earl of Arlington, to the Hague, though on quite different errands. The earl of Offory had commission to propose the lady Mary for the prince of Orange, which he did. The prince answered, there was nothing he more ambitioned when the war was over, but now he could neither leave the war, or think it much pleasing to a lady to bring her where the noise of war then was. This answer incensed the duke of York to so high a degree, that the earl of Offory had his share, as if all the merit of the family were to be buried by it. But when he came back, and shewed his royal highness his majesty's commission for what he did, (which,

(which, perhaps, was not so clearly known before,) he was pacified. My lord returned in January after; but the expressions of anger were then so sharp towards the prince, as none thought his royal highness would ever permit that match to proceed: but it ensued in November 1677.

CHAP.
I.
1674.

In May 1675, his grace returned again to London, and then, I presume, it was, that he framed that long and excellent narrative to his majesty, found in his red desk, to vindicate his administration in Ireland from the aspersions of the lord Ranelagh, who had, about 1671, undertaken to manage all his majesty's revenue of Ireland: and this also contained some material objections and observations upon the failings in that undertaking. It appears not now to me that his grace gave this narrative to the king; but there being very many and frequent complaints against the lord Ranelagh, his lordship did, in October 1675, at the council board, make a large and eloquent defence for himself. He therein had some words of reflection

1675.

CHAP. I. ^{I.}
 1675. ^{I.}
 flection on his grace's management, which drew his grace to petition the board in February after, that his lordship should be required to explain himself; which being ordered, and his lordship giving in a paper in March, his grace did, in May after, 1676, reply thereunto in a large and excellent deduction of all things relating either to his own administration, or that of the earl of Ossory. Upon which, his majesty declared his full satisfaction in both; though, at the same time, it was plain at the board, how strong the friends of the lord Ranelagh were, or were so ordered to be, as not to permit one hard word in the order to his lordship's disadvantage, but a bare dry acquittal of his grace, and an assertion that no dissatisfaction remained with his majesty.

1676. On the 18th of November 1676, the earl of Ossory was made lord chamberlain to the queen. Don Francisco de Mello, the Portugal ambassador, who also was chamberlain, being displaced, on a complaint of the bishop of London, for licensing popish

popish books. It was now about eight CHAP.
years that his grace had been under a ^{I.}
cloud. On the one hand, some of the _{1676.}
principal Irish began to reflect that all the
English governors that went over trans-
ported wealth from their country, whereas
the duke of Ormond spent it there; on
the other hand, some friends of the duke
of Monmouth had pushed hard with his
majesty for his being lord lieutenant of
Ireland, and the duchess of Portsmouth
and the lord treasurer were in the plot.

This alarmed the duke of York, who
had no mind that the young spark should
there learn to taste of sovereignty: so, all
on a sudden, there were favourable glances
cast on his grace, as the only person capable
to exclude him; and, in a short time, his
majesty was prevailed on for his grace's
return, to be once again lord lieutenant of
Ireland. And, because this was brought
about by his royal highness, those whom it
displeased, charged his grace with popish in-
clinations; nay, his friends the bishops,
being

CHAP. I. being then under some ascendant of the
 1676. lord treasurer, joined also, for a time, in
 this suspicion or censure; upon which, I
 remember, his grace's saying was this:
 "That whatever particular persons might
 " utter to his disadvantage, yet they could
 " never dissuade him from reverencing their
 " function." But this was only a nine
 days wonder.

1677. His grace, in August 1677, went to-
 wards Ireland; he took Oxford in his way,
 where he had not been since he was chan-
 cellor. His reception there was with all
 the pomp the place could make. I re-
 member when many scholars pressed for
 degrees, which the good archbishop and
 heads of houses opposed, as what would
 discourage hard students, his grace made
 answer, That he must needs make about
 twenty doctors; he had them in a list;
 but desired the University not to be
 alarmed, for he would undertake for all
 their insufficiencies: so, under this elogium
 at a solemn act in the theatre, a parcel of
 us

us that went so far, and others that went on, were dignified.

CHAP.
I.

1677.

His grace soon arrived in Dublin, and fell to building the great fort at Kingfale, called Charles Fort; and the great hospital for soldiers at Killmainham near Dublin, which is now a stately pile.

In August 1678, the earl of Offory, being general of the English brigade in Holland, gained great glory in the battle against the French near Mons, under the prince of Orange.

1678.

In September of this year, the popish plot was discovered to the council, which, for some years after, disquieted the three kingdoms.

In April 1680, the earl of Offory was restored to the council, which had been before dissolved, to please the earl of Shaftesbury and his faction; and in July after, his lordship died in the forty-sixth

1680.

CHAP. year of his age, in London, as he was pre-
 I. paring to go with a considerable brigade to
 1680. Tangier, to the universal regret of the
 whole nation, and of all Europe.

The countess of Clancarthy, aged seventy years, died at Dublin in April 1682. She was eldest sister to his grace.

His grace continued in Ireland till May
 1682. 1682, when his majesty, at the importunity of his royal highness, called him over to assist in his councils at Whitehall, it being a time of some trouble: he left the earl of Arran lord deputy of Ireland during his absence, and the duchess came over with him.

His royal highness proposed immediately a match between my lord of Ossory his grandson, and heir to his grace, and the lady Ann Hyde, eldest daughter to the earl of Rochester, who was afterwards lord high treasurer of England; which was concluded in the July after.

In

In August, his grace complained to his majesty in council of a libel which the earl of Anglesey lord privy-seal had printed a while before; not only as reflecting on himself, but on the memory of king Charles the first, in relation to the Irish rebellion; for which the said earl was then displaced.

CHAP.
I.
1682.

In November, his majesty made his grace an English duke, by the same title of Ormond*, in consideration of his keeping Ireland quiet during the popish plot, while England was in distraction.

In April 1684, the young earl of Ossory went to the siege of Luxembourg, and returned just before the death of his grandmother, which happened the 21st of July 1684.

1684.

* A question arose, whether he could take the same title in England, where there is no district of that name. This was settled, upon a reference to sir William Dugdale; who, in his memorial, considered that as titles were no longer territorial, a peer might chuse any designation that he liked.

CHAP.

I.

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1684.

In July, the duchess of Ormond died in London, aged sixty-nine years. She had been married at fourteen, lived a wife fifty-seven years, and his grace was then seventy-four.

It was in August after, that I met his grace at Aylesbury in his way for Ireland, where deploring the loss of his excellent consort and long companion, he said, that business, which was otherwise grown irksome to him, was now his best remedy, for the whole day; but at night, when he was left alone to think of his loss, the time was very grievous unto him.

His grace had received very short warning from his majesty for this journey, and no manner of intimations of the purpose to lay him so soon aside; which he therefore resented as exposing him to his enemies; but all this took rise from colonel Talbot's being the summer before in Ireland, to visit and survey all matters there;

there; and on his return and report, it is plain a general alteration was intended. CHAP.
I.

His grace had so little thought thereof, that in the way from Aylesbury to Warwick, he observed to me, that he had left but few enemies behind him. That, on his majesty's command, he had desisted from all prosecution as to the earl of Ranelagh's arrears, and that colonel Talbot had given him thanks for agreeing to his coming over from Paris, where he had remained from the time of the Popish Plot; and that his majesty had only muttered, and that but slightly, of some defects about false musters in the army, and somewhat of the stores; notwithstanding which, at my going to London, I did, before the end of this very month, send him certain advertisements of his removal; to which, in his own words of the fifth of September, he thus answers:
 "They begin very early, before I am
 "warm, or my head settled from the agitation of the sea, to find objections against
 "my conduct."

CHAP.

I.

1684.

In a few months after, he had an original intimation hereof sent him from his majesty's own hand; saying, he intended such changes there, as his grace would not affect to be instrumental in; but left the time of his return to his own conveniency in the spring.

His grace, at his going over, took with him the earl of Ossory and his lady; but in January after, this young lady died, to the regret of all who knew her, and admired her wit and deportment in those tender years.

1685.

It was on the sixth of February 1685, that king Charles the second died. His grace, upon intimation thereof, proclaimed the next day in Dublin king James the second, yet did his new majesty renew the orders for his revocation. And whereas, other governors have retained their character till they arrived at his majesty's presence, he there was to lay all down; for, the commission

mission to the two justices that succeeded him was sent from Whitehall.

CHAP.
I.
1685.

I went to meet his grace at Northampton, and found him a little perplexed; he had left the earl of Ossory sick of the small-pox, at the earl of Derby's at Knowsley, the young lord having been taken ill at sea. Now also came news to him of the death of two of the earl of Arran's children. He met also in a news-paper on the road, the first tidings that his regiment of horse was given away; and other points there were, of no great satisfaction to him. However, when, the next day, I entertained him for some hours on the subject of the lady Mary Somerset, his grace fell into a new air of contentment.

He was met on the road by more coaches from London than I had seen before; and at coming to his house in St. James's Square, the people in a mighty throng received him with acclamations; this was the last of March 1685.

CHAP. His grace is continued lord steward of
I. the household, and, at the coronation in
1685. April after, he carried the crown, as he had
done twenty-four years before to king
Charles the second. (He had also been pre-
sent at the coronation of king Charles the
first.)

In May, the earl of Offory was made of
his majesty's bed-chamber, and he went
down to the western expedition against the
duke of Monmouth, and shared in the glory
of his defeat.

On the third of August he married the
lady Mary Somerset, eldest daughter to the
duke of Beaufort, at Badminton.

About this time, the earl of Anglesey
demanding an old sum of his grace, for
which no writing appeared, and the claim
was groundless, the earl offered either to
swear to his debt, or lose it if his grace would
swear the contrary: but his grace refused
that offer, saying, "there was much differ-
"ence

“ence between a conscience that had taken
“the covenant, and one that had not.”

CHAP.

I.

1686.

The earl of Arran died in London January 1686, and was interred at Westminster, with his brother the earl of Offory, and the duchess his mother.

The February following, his grace retired for some weeks to Cornbury, where he spent much time in reading and writing also, and then came back to London.

In August 1686, the king making a progress to the west, his grace attended him as far as Bristol, and then returned by Winchester to London.

I was told by a small courtier, that was in this journey, that his grace was less regarded in it than one of the new Brigadiers; and that he often went to entertain discourse with him in pure respect, being troubled to see him so neglected by others.

About

CHAP.

I.

1687.

About February after, his grace purposing to return to Cornbury, was interrogated by his majesty about his consent to abolish the Penal Laws and the Test, which grew afterwards a question to many others. His grace did not return that satisfaction which was expected; however, his majesty was pleased to say, that as his grace had distinguished himself by long and faithful service to the crown from others, so he also would distinguish him from others.

It was about the same time that his old friend, the lord Arundel of Wardour, (then lord privy seal,) came to him with some plausible discourse about religion; but it was dexterously thrown off before it could well begin. Peter Walsh also, who, in forty years access to him before, never touched or attempted to speak on religion, was now (as it did appear) set on to try his skill. The good father confessed to his grace, there were numerous abuses in their church, but that still she was the mother, and

and it was safest for salvation to die therein. CHAP.
I.

1687.

He shewed also, that open renunciation, or abjuration, was not required from any who were reconciled, but such as were church-men; and that it would be enough if his grace did but in his heart embrace that faith.

Among other things which were thereto replied, his grace told him, that he had been bred up in that religion, and wanting the opportunities of knowing those errors which were confessed, he might have adhered unto them; but he could not now embrace what he saw cause to condemn. He wondered if the condition in which he was, was so dangerous, why did not so good a friend admonish him sooner thereof. Lastly, he told him that he had taken Notice in scripture, where the day of judgment is set forth, Christ does not interrogate about the manner of believing, but about a man's works; for, the words are: "I was

CHAP. "I was hungry, and ye gave me meat;
 I. "naked, and ye clothed me; in prison,
 1687. "and ye came unto me." There is no
 mention of faith, but of charity; and yet
 these were the righteous that should go
 into life eternal. So Peter Walshe saw there
 was no good to be done.

1688. His grace, in February, went on his jour-
 ney to Cornbury, where, after some stay, he
 returned back in the spring to London,
 and was very ill of the gout, until the
 end of May; being then recovered, the
 king and queen came to Bath, and his
 grace intending to follow his majesty in
 his whole progress, and with a considerable
 train, was in August disabled again by the
 gout, and kept his chamber for a month at
 Badminton. His majesty passing that way
 in his going from Bath to Chester, and in
 his return back, went each time to his
 grace's chamber to visit him.

I continued for this month with his
 grace, and lay so near him as often in
 the night to hear him at his devotion.

He

He had composed some excellent prayers on several occasions, which have since appeared among his papers. He would often discourse to me of the emptiness of all worldly things, of honour, riches, favour, and even of family and posterity itself. Among some discourses of his late majesty Charles the second, I presumed to ask him how early it was he thought him to be a Roman catholic: his grace said, that his first suspicions thereof were while his majesty was in Flanders; for though he never saw that zeal and tenderness as to divine things which he often wished, yet so much as appeared herein looked that way; however, he thought it so very little, that upon returning to his kingdom it would quite wear off. But there happened a thing soon after, on which he had often since reflected, and knew not until now how to interpret aright. It was at the time, he said, that the marriage was in treaty for his majesty with the Infanta of Portugal. He said, that the lord chancellor Clarendon spoke

CHAP.
I.

1688.

CHAP.

I.

1688.

spoke to the lord treasurer and himself, to attend his majesty, as they did, in that room, which they called the Closet of Thomas Chiffins, where the rarities stood. Here my lord chancellor opened to his majesty, not only to what the Spaniards had objected as to the barrenness of the lady proposed to him in marriage, but what he had from other hands. He did most solemnly remonstrate the infelicity of such an event to his whole kingdoms; that the treaty was not advanced so far, but that his majesty might wave it, and that his majesty might not be to seek for a wife, he then proposed some others who were German ladies. Upon this the king said, the German women were foggy, and that one of them would not please him for a wife; and that his accusation must needs come all of it from the malice of the Spaniards, and so bid his lordship without more scruple to proceed in the treaty. I have (said his grace) since reflected on it, that this was to have a catholic wife, and to wave one that was a

protestant; and this very story his grace repeated to me again in April after, when I was with him at Kingston Hall.

CHAP.
I.
1688.

His grace had hired a seat in Dorsetshire called Kingston Hall, where he hoped, by the benefit of that champain country and good air, both to recreate himself and to confirm his health.

So now, in the beginning of September, though still very lame, and without the use of his legs, yet he left Badminton to be carried thither, and being there, he continued much at the same rate until the end of February; and even what he did afterwards, was not without some help.

I remember that, at his departure from Badminton, he was saying, he had not one friend left at Whitehall, to write him the very common occurrences that passed.

It was during this winter that he began to feel the darting of some sharp pains from
his

CHAP. I. his neck up towards his head. He had also
1688. some swelling or disorder in his throat,
which often interrupted his swallowing; but
in the end of March, he was taken with so
violent a fever, that he was twice let blood;
and it was by blistering also and cupping,
and the Jesuits Powder *, that he was then
rescued from the grave.

He continued the use of the Jesuits
Powder for some weeks, because the fever
still lurked within him.

Upon the eighth of April, when the
shock was over, he did, at the importunity
of his steward, Mr. James Clerk, make a
short will. But, the weather being very
long severe, he could not recover any use
of his limbs, till the month of May; and
then he began, with help, to get into the
garden, and so to take the air in his
coach.

* The *quinquina* or bark, so called originally from
the Jesuits Colony in Paraguay.

I was

I was with him for about three weeks in April, in which time his grace was free to discourse over the many memorable accidents of his life; and in speaking of things at present, he lamented his majesty should be advised to put such questions as then passed to men of undoubted loyalty; that for his own part he had ever been not only zealous to serve the crown, but even to please his prince; that he did in truth think the Popish lords had hardship and injustice when deprived of sitting in the house, as it was their right and inheritance *. But, notwithstanding that, the danger of dispensing with those laws was now become so visible, that he did not see how any man could, in good conscience, be absent from the house, whenever that came to be the question.

CHAP.

I.

1688.

* Papists were prevented from sitting in the house of lords of England, by a law in 1678, before the bill of exclusion was rejected in the lords, November 15, 1680, by 63 to 30, in the first reading. Grey's Debates, vol. vi. p. 240. vol. vii. p. 477.

CHAP.

I.

1688.

When I parted with his grace on the second of May, he would expect me, he said, with what I had to shew him, in June; and it was on Friday the 22d of June, that he was seized with a cold shivering fit of an ague, which though it was soon removed, yet after this, he still lost ground; however, he continued at times to take the air in his coach.

On Wednesday the 18th of July, he was for half a dozen miles abroad with the lady Offory, and although he returned back ill, yet he was for the next two days somewhat better, and walked a little about the house; but on the Friday evening, he was taken with a painful stitch in his side, which however was that night by some applications well mitigated.

On Saturday the 21st of July, when his steward Mr. Clerk came to him in the morning, "James," said he, "this day four years was a melancholy day to me, by the loss of my wife."

He

He afterwards spoke of indifferent things; and asked his steward, when it was that sir Robert Southwell had, in his last letter, promised to be there? Though he took delight to see the little lord Thurles play before him, yet he frequently enquired about the hour of the day, and directed his chaplain to prepare the sacrament for him next morning by ten of the clock; and named those that should receive it with him.

CHAP.

I.

1688.

About ten, he desired to rise against the family came in to prayers, as they were wont; and at getting up, he took notice with some content, that his legs were limber and bended with more ease than since he first was sick; which however was nothing else than the mounting up of the humour towards his vital parts; and although whilst he was at prayers, he answered distinctly and as loud as he was wont, yet it appeared by the motions of his countenance, that he had fits of pain which he was willing to suppress. He kept up also till evening prayers, which were at three of

CHAP. the clock, and answered distinctly as before.

I.

1688. He afterwards discoursed about indifferent things, yet was by fits uneasy, so as to say to his steward, "James, be sure you give those papers there in the window to sir Robert Southwell, for he will not come time enough to find me alive." He then desired to return to his bed for some refreshment, and Mr. Clerk perceiving him to decline much faster than he himself apprehended, asked him about four of the clock, if his grace, instead of receiving to-morrow, (as he had appointed,) would take the sacrament now; to which he answered cheerfully, Aye, with all my heart; so being assisted therein by the earl of Ossory and his lady, he took it with most exemplary marks of piety and devotion. After this he discoursed freely as before, and told the doctor who sat by, that although he found a great decay within him, yet he was not then much sensible of pain. In a little while after, he called to his servant to turn him on his side, to try if he could get some rest; but when the servant came he found him dying, and within six minutes he was dead.

He made no struggling, nor sent forth any groans, but expired like a lamp; and in this enjoyed what he had ever prayed for, of not outliving his intellectuals.

CHAP.
I.

1688.

He appointed by his will, to be interred with his lady and two sons at Westminster, to have it privately done, and not to exceed the ceremony that was used for his wife. So care being taken of his body, which was now by long sickness utterly wasted and decayed, it was rolled in searcloths, put into a thin coffin of lead, and the lead one also put into a thick coffin of wood, which was filled up with pitch, and these were wrapped up in velvet; it was thus, on Wednesday the first of August, conveyed to the hearse; and being attended with six mourning coaches of his grace's family on the road to London, his body was met near Westminster by his grandson and many other friends; and with all decency there deposited on Saturday night, the fourth of August 1688, the dean reading the service.

CHAP.

I.
1688.

Had he lived till the 19th of October following, he had completed the age of seventy-eight years; which yet was eight years short of what his mother the lady Thurles had lived, and nine years less than the age of earl Thomas, who was his great great uncle.

As to his grace's vigour and health, few men (in so various a course of life) have ever held it so long, without yielding to the effects of age or infirmity. Till he was thirty years old he never had been sick; but then, having had such a fever at Dublin, that all men despaired of his recovery, he afterwards grew somewhat sensible of cold, and was subject to fevers and pleurifies; and, in June 1658, he had a desperate fever, being then at Bruges.

He never had the gout till the year 1660, which was that of his late majesty's restoration, and when his grace was fifty years old; but afterwards he scarcely missed a year without suffering by it.

In

In the month of October 1683, being at CHAP.
his house * in St. James's Square, London, ^{I.}
he was in extremity with a pleurisy, but, 1688.
by letting blood thirty ounces in two days,
he soon recovered.

In August 1685, while he was at Badminton, and took a turn to the Bath, he had a violent pain in his right ear, where, at length, an impostume broke out; and afterwards his hearing was much impaired on that side.

His grace could remember some things that passed when he was but three years old. He was only four years old when his great great uncle, earl Thomas, died, in 1614, but he retained a perfect remembrance of him. That earl lived in the reigns of king Henry the eighth, king

* The house, where the duke and his grandson lived, till 1715-16, was the corner house in York-street, and the stable lane behind it still retains his name.

CHAP. Edward the sixth, queen Mary, queen
I. Elizabeth, and king James; and his
 1688. grace had seen king James the first, king
 Charles the first, king Charles the se-
 cond, and king James the second: so that
 between them both, they were cotem-
 porary with nine princes who ruled this
 land.

His grace had also seen seven generations
 in his own family, three above and three
 below himself. He had several great-
 grandchildren; of which the eldest, lord
 Strange, son to the countess of Derby,
 was above eight years old at his death.
 And as he was on his death-bed, he had the
 contentment of seeing his third and fourth
 generation before his eyes; I mean his
 grandson, the earl of Offory, and his great
 grandson, Thomas viscount Thurles, who
 was near two years old. He parted with
 these, and all the glories of the world, with
 a steady and unshaken mind. He sealed
 up his faith in the Communion of the
 Church

Church of England, and preserved his understanding as long as he had breath *.

CHAP.
I.

1688.

* As this narrative of sir Robert Southwell was only a collection of some short notes of the duke of Ormond's private familiar conversation, and intended only for the inspection of his grandson and relations, it is plain that it never was designed for the press;—it was necessary, therefore, for the editor not only to correct the antient spelling, but also to extend the sentences occasionally, and to substitute in many places modern for obsolete phrases and expressions: these alterations, however, in some degree were conformable to sir Robert Southwell's intention, expressed in the dedication to the late duke, “that if he had sooner thought of this work, it had been more ample and exact.”

This short history, which is the most authentic account that has hitherto appeared of one of the first characters of his age, the greatest statesman, the most polite and accomplished man that Ireland ever knew, cannot but be highly acceptable. Touching this last part of his character, it has been remarked by many English officers who have been quartered in the town where the antient mansion of the family is situated, that they had experienced more hospitality and good breeding there, than in any other country quarters; which certainly were the remnant of that politeness and decorum, introduced by the first and the last duke of Ormond, during their occasional residence at the castle of Kilkenny.

C H A P. II.

*Of the Proceedings of the House of Lords,
from the Session of 1634 to 1666.*

S E C T I O N I.

C H A P.

II.

1634.

ON the 14th of July one thousand six hundred and thirty-four, the lord deputy Wentworth entered the house with great state. The same forms seem nearly to have been observed upon that occasion as, at present, upon opening a parliament, but with one remarkable difference: that the master of the rolls, standing among the judges, read the king's commission for holding a parliament, by the chancellor's order; a form which probably prevailed while the master of the rolls was an efficient officer, resident in the country; which he was till the year one thousand six hundred and forty; when, upon the appointment of sir John Temple, it was made a sinecure, notwithstanding a representation was presented against it

it by the house of lords*. This is unquestionably one of those grievances which ought to be remedied, as it certainly would be of great use if that officer were efficient, as he is in England †. After this ceremony, a writ was ordered by the lord deputy upon the motion of Mr. Darcy, a counsel, for William lord Slane; and a writ of summons was issued to him, with a *salvo jure* for his brother Thomas, if he should return after fourteen years absence, of whose existence doubts were entertained. This Thomas lord Slane had been tried for murder some years before that time, as appears from Mr. Prynne's argument in the case of lord Maguire, Whether an Irish peer could be tried by a jury in England for a crime

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II.

1634.

* Christopher Wandesford, Esq. who died lord deputy in 1640, was the last master of the rolls, who acted judicially in that capacity, since which period it has been considered as a sinecure, and upon the resignation of the duke of Leinster in 1789, it was granted in copartnership to the earls of Glandore and Carysfort.

† Two bills were presented to the house of lords in 1771 and 1783 for this purpose, but they did not pass.

committed

CHAP. committed in Ireland? which doctrine was
 II. then established. The earliest Journals
 1634. which were kept in the house of lords, were probably those in one thousand six hundred and thirty-four; as Mr. Prynne seems to say, that there were none extant at the time that cause was argued, in one thousand six hundred and forty-four, of an earlier date than those of this session *.

This day the house was adjourned till the morrow at ten o'clock, the lord chancellor declaring it to be the lord deputy's pleasure. When the house of commons were to be called in, it appears that the lord deputy withdrew himself while the lords took their places, and returned afterwards when they were seated.

The next day, the 15th of July, the house met, when sixty-six lords were present; a greater number than are usually noted in modern times.

* Hargrave's edition of the State Trials, vol. viii. p. 350.

From the beginning of these Journals, CHAP.
as well as those of the lords of England, II.
from the first year of Henry the eighth, the 1634.
lords who were present every day are noted,
except during the *interregnum*, and possibly
at other irregular periods.

On this day the commons were called,
and ordered to choose a speaker, when lord
Slane took his seat according to the preced-
ing order.

The proceedings of the next day, about
the presentation of the speaker of the house
of commons, to the lord deputy, are not
recorded.

On the 17th, the names of the lords, pre-
sented by the king at arms, and duly register-
ed, amounted to one hundred and twenty-
two *.

The proceedings of the intermediate days,
to the 23d, contain nothing remarkable;

* The number of the lords spiritual and temporal
was two hundred and two in 1791, and two peeresses
in their own right.

but

CHAP. but on that day the chancellor informed the
II. house, that they ought not to be called
1634. every day; and that the lord deputy informed him, that, in England, they were called only occasionally. Two and twenty standing orders were entered; most of which are still in force. The peculiar advantage of a standing order is said to be, that, whenever it is read, it has, for the time, the force of a law. To adopt, to abrogate or vacate, and to dispense with a standing order, a proposition must be made one day and debated another, when the lords are to be summoned expressly for that purpose.

On the 25th, a very extraordinary letter from Charles the first to the lord deputy was read; whereby all peers, who had titles in Ireland, were to be assessed to public charges, and a bill was recommended to be brought in to that effect. In the ancient method of levying subsidies, and in poll-taxes, peers were assessed according to their rank; but those who had no estates in Ireland at this period had pleaded exemptions, which this act was intended to obviate.

On

On the 28th of July, the great money bill was passed; and the same day a bill was brought up from the commons, that parliament should not determine by his majesty's assent to certain bills. This circumstance applied to the ancient custom of passing laws, which was grounded upon such prudence and good sense, that, if it were observed now, many of the inconveniencies, and much of the perplexity and uncertainty of modern laws, might be avoided. It appears from Cotton's Records, that the commons and lords, severally or jointly, presented short memorandums of their desires to the king to be framed into laws; to which, if he agreed, they were to be deposited among the records of parliament till the end of the session, when the judges were ordered to draw them up in the regular form as acts of parliament, and the completion and passing of these acts concluded the session. When this practice was changed, by the royal assent being given to laws in the middle of the session, it was thought expedient to continue parliament by an express

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II.

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1634.

press law; as the doctrine was then prevalent, that the royal assent to a bill terminated the session; and of this, there are many instances, in early times, both in England and Ireland. Upon this occasion the lord chief baron was ordered to explain the principle of the bill, which he exemplified by similar cases in England.

The 29th of July was remarkable for a *free* conference about fixing the commencement of next session. Twenty commoners were appointed to meet a committee of the lords; but some formality, it appears, prevented their meeting. The early Journals are filled with controversies about the idle ceremonials of conferences; and as they would embarrass this abridgement of parliamentary proceedings, a short abstract of these disputes, and their fatal consequences, shall be given in another chapter.

The 30th of July, the Journals appear divided into two parts, the first of the committees, and afterwards of the House.

This

This method of keeping Journals of the committees, as well as of the house, has not been regularly observed in Ireland. In England, the lords' Journals of committees are preserved since one thousand six hundred and sixty-one; they were not printed with their Journals, but remain in manuscript.

CHAP.
II.

1634.

Twenty-nine proxies were entered, four and five to one lord, which was a scheme of lord Strafford's; but this abuse was soon afterwards corrected by a standing order, that no more than two should be given to one lord; and the form of their being entered was, at this period, very extraordinary. The lords, who had proxies, were severally introduced, personating those whose proxies they had, and taking their seats according to their relative precedence. This is particularly mentioned, because the right of protesting by proxy, which is a custom peculiar to the house of lords of Ireland, seems to depend upon this circumstance; for, as

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they

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}

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they personated those lords, so it seemed to follow, that they should act in every respect for their proxies as if they were present, and, among other privileges, had a right to protest. A question arose about this in the case of the earl of Grandison in one thousand seven hundred and sixty-five, Whether lord Tyrone could protest in his name, and sign accordingly? Upon a reference to the earl of Hertford, then lord lieutenant, he decided against the right, from the practice of the lords of England. But many precedents having been cited by a committee, among the rest, one of lord Conway, his lordship's father, the house confirmed that privilege, and many instances have occurred in the last twenty years of protesting by proxy.

On the 1st of August, a very extraordinary proposition took place, that the judges should draw an act, by way of petition, to the king, That every earl, deriving honours from Ireland, should purchase three; every viscount two; and every baron

baron one hundred pounds a year, within two years, if they were not antecedently possessed of them, or otherwise such titles should be void. But this qualification has never had effect, or passed into a law.

CHAP.
II.
1634.

On the 2d of August it was moved, That those lords should be amerced who had not sent proxies, or made proper excuses ; but the lords said, they would make no order therein, some having the lord deputy's leave of absence, and others being excused for sickness.

This day was remarkable for a dispute between the lords and the lord deputy about the framing of acts ; which right, by Poynings' law, he contended, was in himself and the council only, and parliament had only power to prefer a petition to them for that purpose ; and lord Strafford entered a memorable protest upon this occasion in the Journals. A question arose this day about the precedence of lords Folliot and Castlestewart, which the lord deputy gave

CHAP. II.
 1634. to the latter *. In England, the precedency of the lords was established by the 31st of Henry VIII. chap. 10.; but as that act did not extend to Ireland, the king, or his deputy, claimed a right of conferring it; and therefore lord Strafford gave precedence to lord Castlestewart accordingly, and laid a representation of his case before the king. The parliament was prorogued this day, when the speaker made a speech, and the royal assent was given in the present form, except that the chancellor pronounced the sanction, which the clerk wrote on each act severally. The instrument of prorogation

* Upon this occasion the lord deputy Wentworth mentioned the case of the earl of Abercorn; who had petitioned, that he might resign the Irish title of Strabane to the king, that it might be granted to his brother to have precedence according to the original patent. That he, the lord deputy, having thought that it might give offence to the nobility of Ireland, had advised that the clause which concerned precedence might be omitted; yet that, within a few days, a warrant had been brought to him from the king to confirm the old precedence, notwithstanding the peerage had been transferred.

was

was then read for proroguing the parliament to the fourth of November, on account of the harvest and the circuits. In this session the lords sat seventeen days; and it appears that the following officers attended the house, in a room in the castle, where another room was occupied by the house of commons: the clerk and his deputy on the woolfack, the gentleman usher without doors, and the yeoman usher; the serjeant at arms attending the lord chancellor, and the king at arms attending the lords when first placed. In this session many particulars deserve attention, as various customs, which now prevail, are to be traced from usages established at this period.

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SECTION II.

THE second session of one thousand six hundred and thirty-four commenced the 4th of November. Lord Caulfield, notwithstanding he had brought neither writ nor summons, was introduced, as the lords were satisfied of his right; and the names of the lords who appeared in person, or by proxy, were one hundred and fifteen: those who did not send proxies were fined. Next day, some trifling incivility of the house of commons, about a conference, was communicated on a motion to the lord deputy, who intreated them not to prevent the great business on hand by standing on niceties; and on the following day, a conference was agreed to. In a subsequent chapter, a short detail shall be given of these trifling ceremonials, which formed the greatest instance, perhaps, in the sequel, of *les grands evenements des petites causes*.

On the 17th of November, it appears by the Journal of a committee, that a bill
was

was lost by an equality of voices in a com- CHAP.
mittee, relative to limiting actions, parti- II.
cularly with regard to the church. In 1634.
one thousand seven hundred and eighty,
this point of order created some diffi-
culty. A bill was brought from the com-
mons to oblige landlords to renew in all
cases, leases of lives renewable for ever,
though the tenant had lapsed the time
stipulated for renewal by the covenants.
The question before the committee was,
Whether lord Ranelagh, the chairman,
should vote in the first instance, like the
lord chancellor, as the speaker of the house
of lords, or vote in the last instance, like
the speaker in the house of commons, only
when the votes are equal? A noble lord hav-
ing argued for the first, lord Lifford, the
late lord chancellor, to whom the point
was submitted, decided for the latter opi-
nion; and the former noble lord did
not appeal to the house at large, as think-
ing they would probably decide against
him, from their great and just opinion of
the knowledge and abilities of their presi-
dent. Upon this, the bill was carried by a
Y 4 majority

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majority of one. On consulting several lords in England afterwards, the point of order was decided otherwise; and upon a revision of the orders in one thousand seven hundred and eighty-three, it was established in all cases, that the speaker and chairman of the lords should vote like the rest, and that upon an equality of voices, *semper presumitur pro negante* *. It was said, however, upon that occasion, that if that point of order was carried, it was necessary still for a committee to report, as their delegated power went no farther than to prepare a bill, or to modify and correct

* In divisions;—the lords in the house are always reckoned first, after which application is made to the president, to know how *he* chuses to be told; so that he closes the division on that side, or commences it on that of the contents; who, in *all* cases, go below the bar in the house of lords of England.

It is to be observed, that the tellers always count themselves; so that if a lord were to divide against the whole house, it would be reported, that the not-contents were fifty, and the contents were one; when this happens in the house of commons, where the tellers are not counted, the report has an odd appearance; as it is entered, the noes were fifty, and the ayes were — —.

it.

it. But this question is stated only as an undecided point of order, on which various sentiments still prevail.

CHAP.
II.
1634.

A proposition for a mint in Ireland was made from the house of commons on the 24th of November, which produced a free conference; in which it was stated, that there had been a mint in Ireland from the time of Edward the first till the reign of Edward the sixth; and a joint application from both houses was made to the lord deputy for such an establishment, which, however, has not been since effected, though it has been often in contemplation.

On the 15th of December the parliament was prorogued. The proclamation was given by the lord deputy to the lord chancellor, and by him to the clerk to be read. The most remarkable circumstances of this session were, a table of fees for the officers of the house, entered the 28th of November, and the arbitrary reprimand of lord Strafford to the house of commons for not attending as soon as they were summoned,

CHAP. moned, on the last day of the session. The
II. arrangement of fees, and the payment of
1635. them to the clerks, particularly on proxies, seems to have given much trouble in these early sessions of the Irish parliament.

SECTION III.

THE third session of one thousand six hundred and thirty-five began the 26th of January; some disputes with sheriffs for levying wages on the lord's lands for members of the house of commons in this session, gave much trouble, and created great jealousy. The prorogation of this session was on the 25th of March, one thousand six hundred and thirty-four. A bill to naturalize John and Thomas Wentworth, esqrs. passed this session; a circumstance that appears to be very extraordinary, since it proves, that, being a subject of the king in England, did not then, *ipso facto*, give the right of naturalization in Ireland.

SECTION IV.

CHAP.

II.

1635.

THE fourth session of one thousand six hundred and thirty-five commenced on the twenty-fourth of March. The lords adjourned to the 6th of April, when ninety-five lords present in person or by proxy were entered. This session the lords sat ten days, and the parliament was dissolved about the 18th of April. Only two extraordinary cases occur in this session; one was a complaint of a breach of privilege of the earl of Ormond, against a serjeant of the house of commons, who levied a distress on one of his tenants at the suit of sir Thomas Butler; and the other, the said earl being introduced as a proxy for the earl of Londonderry.

The precedence of the lords in these sessions of one thousand six hundred and thirty-four and thirty-five, was as follows: The chancellor viscount Loftus; the four archbishops, the earl of Cork lord high treasurer, the earls of Kildare, Ormond, Thomond,

CHAP. II.
 1635. mond, Clanrickard, Castlehaven, Antrim, Westmeath, Roscommon, Londonderry, Desmond, Meath, &c.—Viscounts Gormanstown, Fermoy, Mountgarret, and Grandison, &c.—The bishops in their present state.—The lords Athenry, Kingsale, Kerry and Lixnaw, Slane, Howth, Trimbleston, Dunsany, Curraghmore, Dunboyne, Upper Ossory, Louth, Inchiquin, Castleconnell, Cahir, Mountjoy, Cavan, Brittas, Castlestewart, Folliot, Maynard, Dundalk, and Digby, &c. &c.

On a controversy between lords Trimblestown and Dunsany, the lord deputy and council gave the precedence to the former. They appear in this case to have decided by prior date, and probably would in other similar cases if called upon, as it is not likely that an unpopular prerogative would be exerted, to set aside the claims of a prior patent*.

* A dispute about the precedence of the earl of Surry, gave rise to the act of precedence in England, which law does not extend to, nor is there any similar act in Ireland. Lords Journals of England, vol. i. p. 23.

SECTION V.

1640.

ON the sixteenth of March one thousand six hundred and forty, the parliament re-assembled. There was no session from one thousand six hundred and thirty-five to this time. In this session the lords sat fifteen days; but their proceedings are not distinguished by any remarkable transaction.

On the eighteenth of March the house was called; only thirty-seven lords answered, the rest excusing themselves from their attendance, as the lord lieutenant was just landed; on which the parliament was prorogued by commission to the 20th of March for two days. On that day, lord Strafford rode with all the lords, the younger first, to church. The speech and election of the speaker were in the usual form. On the 28th of March, the present form of the chancellor going down to the bar uncovered with the purse to receive the commons' message, was first established, upon

con-

CHAP. consideration of precedents. A debate en-
 II. sued about the form of a preamble or de-
 1640. claration of a bill of subsidy; in which,
 short abstracts of the lords' speeches are
 given, as was the case in the early Parlia-
 mentary Journals of the commons of Eng-
 land. The proceedings of the great com-
 mittees during this and the preceding sessions
 are entered upon the Journals; nor does there
 appear to be a good reason why this custom
 has been disused. The parliament was con-
 tinued by adjournments and short proroga-
 tions, to the 1st of October one thousand
 six hundred and forty. On the 12th of
 October, parliament was prorogued in the
 same form as before, and the proclamation
 was read in the house.

On the 29th of October the house met,
 and was called over; seventy-six were present
 in person, or by proxy, which was a great
 number; as the fullest house, in our days,
 was about fourscore lords on the pension bill
 in one thousand seven hundred and eighty-
 nine, proxies included. On the 9th of No-
 8 vember

vember it was called over again, when sixty-
seven, proxies included, were present, and
parliament was prorogued to the 26th of Ja-
nuary.

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II.

1640.

SECTION VI.

ON the 26th of January one thousand
six hundred and forty-one, the parliament
assembled according to the last prorogation,
when the following extraordinary question
arose. Since the last prorogation the lord
deputy Wandesford had died, and lord Straf-
ford, the lord lieutenant, was absent. The
question was, Whether parliament should
be continued? The judges gave their opi-
nion *seriatim*; four were for, four against
the continuance. The house then decided,
that the parliament should be adjourned,
and continued till the 30th instant, with a
protestation or declaration in favour of the
king's pleasure. On the 9th of February,
the necessity of a declaration was obviated
by the king's commission to the lords jus-
tices, Parsons and Borlase, to hold a parlia-
ment.

1641.

CHAP. ment. In this session of parliament the
II. lords sat twenty-one days.

1640.

About this period, a very extraordinary debate took place about a writ of summons to the bishop of Killala, who had signed the Scotch Covenant. The bishop of Derry opposed it with violence; saying, that "it were fit he should be put into a sack into the sea, nor see the sun, nor enjoy the air." The earl of Ormond conceived that the house were of one mind, that he was incapable of the privileges of the house, which were carefully to be preserved. The chancellor sir Richard Bolton, though a commoner, the primate archbishop Usher, the archbishop of Dublin, and lord Ranelagh, spoke in this debate; and it was ordered, that no writ should issue.

Till the period of one thousand six hundred and thirty-five, the Journals were more regularly kept than even in the present times.

times. The names of the lords who were present are regularly noted; the proceedings of all the great committees are entered in the Journals: and why that practice has not been continued it is difficult to conjecture. The house generally met at eight or nine o'clock in the morning; and it is very perceivable, that they sat at different periods of the same day before and after dinner; though the adjournment during pleasure is not entered, nor does the preface of *post meridiem* occur, which so often appears in the early Journals in England. The common hours of dinner, in those early days, were eleven or twelve o'clock; and they generally adjourned during that time for a short space, and resumed business in the house, or more frequently in a committee afterwards. The debates, if we may guess from brief notes in the Journals, were very short, and generally turned upon precedents and matters of fact. The *verbiage* and amplification of our days seem to have been then unknown, or confined to the tedious, unmerciful pleadings of lawyers; which ap-

CHAP.
II.
1640.

CHAP.
II.

1640.

pear from Rushworth and the State Trials to have been prolix, though not so very long winded as in our days. During this period, no mention is made of an appeal or a writ of error, though there are traces of the decision of causes, where probably the house assumed an original jurisdiction. Most causes were decided upon paper petitions* before the castle chamber in lord Strafford's days; from whence, probably, no appeal was allowed. The castle chamber was composed of some leading members of the privy council, and some of the principal lawyers, like the star chamber in England. The latter was abrogated by act of parliament; the former fell into disuse. An act to annul it in form passed in one thousand six hundred and ninety-eight, but it was not returned to Ireland. The books of the privy council, which were burned at the great fire in Dublin Castle in one thousand seven hundred and twelve-thirteen, probably contained the proceedings of this

* Petitions which were not regularly filed and recorded.

court,

court, and are a most irreparable loss to CHAP.
Irish historians. II.

1641.

The first writ of error, which regularly occurs in the Irish parliament, was in one thousand six hundred and forty-four; and of the first appeal in one thousand six hundred and sixty-one, which shall be noticed in their places. In the Journals of the lords of England, the first instance of a writ of error was in the latter end of the reign of Elizabeth; and the first instance of an appeal from the court of chancery, was of an appeal from the brightest name in the annals of science, and the most corrupt name in the records of the law: corrupt in the records of law, because the proceedings in the case of lord Bacon were ordered to be extracted from the Journals of the house, and deposited as a perpetual monument of his exemplary punishment among the archives of the court of chancery; therefore it is not surprising that appeals, in a regular form, were of so late a date in the Irish parliament.

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1641.

From the regularity of those early Journals, it has been supposed, that lord Strafford himself was often referred to, upon points of order and of ceremony in the English parliament, of which more than one instance occurs in the Journals.

The principal members of the lords were the earl of Ormond, who appears to have been early an able debater; viscount Loftus the chancellor, lord Lambert, lord Ranelagh, and the great Primate archbishop Usher. From this period till the year one thousand six hundred and forty-six, till which time parliament occasionally assembled, the Journals are irregular, the attending peers are not regularly entered, and the records of parliament resemble the confusion of those disturbed times; but the plan of this work will not allow me to pass them by without some notice, and I shall proceed to advert to the most prominent features and remarkable transactions of the ensuing sessions, before the restoration.

In

In the transactions of parliament in these CHAP.
confused and perplexed periods, interesting, II.
entertaining, or useful anecdotes cannot be 1641.
expected; but the narrative of the histo-
rian and the descriptions of the traveller
who adhere to truth, must depend upon
the materials which are furnished by the
subject on which the former is engaged; or
by the natural advantages, the refinements,
the elegance of manners, or the improve-
ments in social manners, in the countries
which the latter has visited.

SECTION VII.

THE principal transactions of the par-
liament of one thousand six hundred and
forty-one, are the following:

On the 13th of February, it was ordered
by the committee of privileges, “that, such
“as are peers of this realm and have estates
“here, shall not appear by their proxies
“without the king’s or chief governor’s leave
“of absence, to be allowed by the house, and

CHAP. "the clerks fees to be paid for entrance."

II.

1641. This order, copied *verbatim*, is rather obscure; it seems to preclude peers that had not Irish estates from voting, and to apply only to those that had the above requisites. The doctrine of a licence for a proxy from the king or lord lieutenant, seems to have long ceased; but *per licentiam domini regis*, are words which occur in the English proxies*; and a doubt was raised in England, in November one thousand seven hundred and eighty-eight, whether proxies for that parliament were good, as they could not then be supposed to be licensed by the king; probably leave of absence and of appointing a proxy depended upon the executive power in early times, from the writ of summons which commands the attendance of members, by the king or his vicegerent, and from the original words in the English proxies themselves.

* The proxies of the lords in England, are in *Latin*; in Ireland they are in *English*.

The

The subsequent order contains a representation to his majesty, that peers not CHAP.
II.
1641. estated in Ireland should not be allowed to vote ; and the proxies which were entered were ordered to be authenticated by the beforementioned requisites the same day. A day was appointed for hearing the merits of a cause upon the petition of George Filkin against Robert Valentine ; as the first regular writ of error that appears upon the Journals and the first appeal were in subsequent periods, which shall be mentioned in their places, it is not improbable from this circumstance, and other proceedings of the same kind, that the house in these early periods assumed an original jurisdiction.

On the 15th of February, lord Slane mentioned, that after the last sudden prorogation fourteen lords then in town had commissioned lords Gormanstown, Muskery, and Kilmallock, to repair to his majesty to complain of grievances, and moved to have them regularly appointed by the house,

CHAP. II. which appears to have been done by the
 1641. house dispensing with their attendance. The principal grievances were concerning proxies from those peers who had no estates in Ireland; extrajudicial opinions of the judges on paper petitions, and on letters patent; arbitrary committals of peers; prohibitions of access to the king, &c. &c. This is the second* instance of commissioners to England; the next was in one thousand six hundred and sixty-one-two, and the last in one thousand seven hundred and eighty-nine, on the subject of the regency.

Four lords were fined this day, for non-attendance; the archbishop of Tuam £. 300. lord Brittas £. 150. lord Mountgarret £. 100. and lord Dunfany £. 20.

On the 18th of February an odd motion was made, That as all the bishops were against a representation about certain griev-

* The first instance of parliamentary commissioners, was in 1614. See above, p. 177.

ances,

ances, the lords spiritual should not be
named: upon which the judges were con-
sulted; and their opinion was, that in any
act or order which passed, it must be entered
by the lords spiritual and temporal.

CHAP.

II.

1641.

The same day, the three lords above named were regularly appointed commissioners to his majesty. The history of this proceeding was, that in the last parliament a committee of grievances had been appointed; and no report had been made, as it was prevented by a sudden prorogation; the major part of the attending lords then in town had commissioned the lords Gormanstown, Dillon, and Kilmallock, to go to England. For this irregular procedure they were now indemnified and regularly appointed, and a schedule of seventeen grievances were prepared, and ordered to be presented by them to the king. This was sent in a letter to them from the chancellor.

On the 19th of February, it was ordered that when more parties than one were concerned

CHAP.
II.

1641.

cerned in a bill, double fees should be paid.

On the 22d of February, a celebrated protestation was proposed against a preamble to an act of four subsidies, approving of lord Strafford's government, which they said was surreptitiously inserted by him. The earl of Ormond contended strenuously against this question, but no division is mentioned, and very few instances of dividing the house occur in those early Journals, nor were the numbers upon divisions recorded. This protestation was carried, and sent next day to the commissioners in England to be laid before the king.

On the 22d of February, twenty-two questions were sent from the commons, and ordered to be put to the judges. On the 23d of February, two petitions were presented by lord Lambert; one, for advancing the Irish nobility to offices of trust; and the other for a person of estate in the kingdom, duly qualified, to be master of the rolls. The lord chancellor informed the house that sir John Temple was appointed; but the next day a representation

ation was made, which disapproved of this designation. This office was continued to his son sir William Temple, and it has ever since been considered as a sinecure; contrary to an act of parliament, wherein the master of the rolls is enumerated in the tenth year of Henry VII. as a judicial officer; and in one thousand seven hundred and eighty-nine this office was granted to two noblemen in commission. This petition, and that touching the employment of the nobility, were presented by the parliamentary commissioners to his majesty.

CHAP.
II.
1641.

On the 24th of February, time was given until the next Friday to the judges, to answer the questions from the house of commons; to which one query was added by the lords.

On the 27th, the lord chancellor reported a message from the house, in which they impeached himself, the bishop of Derry, the chief justice Lowther, and sir George Radcliffe knight, of high-treason, and

CHAP. and desired that they might be sequestered.
H. The sequestration was proposed, queries were
1641. put to the judges, and there were long debates on the commitment, but it did not take place; which produced a representation by captain Audley Mervyn*, from the house of commons. A proxy from the bishop of Cork to two lords was disallowed, and ordered that it should be sent to one lord; a rule which has been since uniformly prevalent.

On the 1st of March, the impeached parties were ordered to enter into recognizances of twenty thousand pounds each for their appearance.

On the 2d, it was ordered, that the sum of two thousand four hundred pounds should be levied on the lords spiritual and temporal, for the service of the committee in England, with the consent of the commons.

* Afterwards speaker of the house of commons in 1661.

The

The same day, the bishop of Ardagh having been cited to appear before the commons of England, at the suit of Teague O'Reiddy, gent.; he was declared privileged by the house as their member, and a letter to that effect was sent to the speaker of the commons of England, excusing his attendance.

CHAP.
II.
1641.

On the 3d of March, lord Baltinglass was appointed a commissioner in England, in the room of lord Muskery, deceased; and a question arose, whether a committee could administer an oath; which was decided in the negative, upon the opinion of the chief justice Lowther; and the chancellor was ordered to give a commission to the clerk, during the session, for that purpose.

The earl of Ormond reported the extraordinary case of John Fitzgerald; who, though he had been committed for a fine decreed against him in the castle chamber, in which a lord had an interest in the damages, was brought

CHAP.
II.
1641.

brought into the house of commons as member for Ennisfeogue; whereupon the state of the case was ordered to be drawn up and sent to the commissioners in England to be laid before his majesty.

Next day, the 4th of March, the debates were very irregular: upon lord Inchiquin's moving for the order about Fitzgerald, a message came from the lords justices, and his lordship insisting upon reading the order, the chancellor declared he durst not disobey the lords justices' desire; which was to send two lords to attend them from the castle to the house*. The lord chancellor then, upon the perseverance of other lords, said, the house was dissolved† into a committee; lords Lambert

* This etiquette has been regularly observed since that time, whenever the lord lieutenant goes to parliament.

† This phrase, *dissolved* for *resolved* into a committee, seems to have been the ancient parliamentary term in both kingdoms.

and

and Neterville told him, he ought not to proceed without leave of the house. Another motion being then made, and the black rod having reported a message from the house of commons, the chancellor declared he must go, being again commanded to attend the lords justices; upon which, two lords were ordered to accompany him to their lordships, and to desire, that, as there was a message from the house of commons, he might return presently. The house was then dissolved into a committee; and upon the chancellor's return, a representation was agreed upon to his majesty, touching the inconvenience of their members' attendance upon the parliament of England. The house, on the motion of lord Maguire, was then put into a committee, to consider of the commons' request of sequestration. The report being made to the house by the earl of Ormond, caused a long debate: the result of which was, that the house resolved to commit their persons, and sequester their places; but not knowing the importance of it to
the

CHAP.

II.

1641.

CH A P. the king's service, they left it to the lords
II. justices, to bail the judges if they pleased: a
1641. committee was then ordered to attend the
lords justices with the above report.

The chancellor then made a short defence, in which he first demurred to the jurisdiction of parliament: secondly, he denied that there was treason in the charge: thirdly, he asserted that there was no instance of such proceeding since Poynings' act, the tenth of Henry VII. and the explanation of it, the fourth and fifth of Philip and Mary: and lastly, that it trenched upon his majesty's prerogative.

This caused a violent debate; Poynings' law was read, and the earl of Ormond desired to have the judges' opinion upon this question. After some irregular debate, the chancellor was ordered to enter into a recognizance for 20,000*l.* to appear the next day; and the chief justice was committed, and heard at the bar in his defence;

fence; having been previously informed of the charge, by the impeached chancellor.

CHAP.
II.

1641.

The house then ordered, that he and the bishop of Derry should be committed. On this occasion, the bishops claimed a right of voting, which was agreed to, it not being a matter of blood, but a mere preliminary. The proceedings were laid before the lords justices by a committee; the report of their answer was made by the earl of Ormond.

It is almost impossible to collect the reports from the Journals of these confused and perplexed proceedings; which, according to sir Robert Southwell, were rendered so, purposely to defeat the impeachments, and to embroil the two houses; the consequence of which was a prorogation from the 4th of March to the 11th May; this was not in the usual form, but by a proclamation out of doors. The parliament was afterwards further prorogued, and from this time the form of proroguing it in this

CHAP. II. manner has prevailed. Before this period
 1642. they met according to appointment, and
 were prorogued like the English parliament
 in our days.

SECTION VIII.

THE parliament met on the 1st of August one thousand six hundred and forty-two, after a long interval, during which the rebellion had broke out. The earl of Ormond moved, that sir Richard Bolton, the chancellor, should be restored to his place as speaker, to which judge Ryves had been appointed by patent. The same motion was made for the chief justice Lowther; this was done upon the allegation of the accusations of high treason being dismissed. Some allusions in the Journals to transactions in the interval between this and the preceding session, which are not now to be traced in the annals of parliament, induce us to believe that some antecedent Journals are lost.

The

The lord chancellor then took his place and returned thanks, and the chief justice also. A message was sent to the commons, to ask whether they had any more reasons to give, why they should retain the charge against the chancellor. The next day, the commons sent a message, wherein they gave reasons why they retained their charge against the bishop of Derry and sir George Radcliffe.

CHAP.
II.
1642.

This parliament sat, being continued by long adjournment till the 14th of December one thousand six hundred and forty-two, when it was prorogued to the 28th of April one thousand six hundred and forty-three. A curious particular is to be observed in these Journals, that the morning sitting is prefaced with large capitals, DIE MERCVRII, 14th December, one thousand six hundred and forty-two, and the afternoon sitting in small letters*.

On

* Why the day of the week should be in Latin in the lords' Journals in both kingdoms, and not in

CHAP.

II.

1643.

On the 6th of August one thousand six hundred and forty-three, alderman Jans presented a petition, which being deemed informal, he was allowed to withdraw it, and to present another. On the 16th of August the house was adjourned by the lords, to the 14th of November; and on the 17th, upon the motion of the chancellor, the marquis of Ormond's patent was entered upon the Journals, dated the 18th of Charles I. which appears to have been an extraordinary compliment. On the 14th of December, the house was prorogued to the 28th of April one thousand six hundred

English, must appear extraordinary; but the reason of it is this; the Journals of the lords of England, from the reign of Henry VIII. and three of his successors, were all in Latin, and probably the same form would be found in Ireland, if any cotemporary Journals of the lords existed. When they came to be written in English, some Latin words, dates, &c. were naturally preserved; and thus technical phrases in Latin still prevail in our law, because all legal proceedings were till a late period in that language.

and

and forty-three. The house met for one day; on which day, the 28th of April, a petition was presented by the officers of the army for relief, and an order was made against protections; confining them in future to all menial servants. Parliament was prorogued to the 13th of November. On the 13th of November one thousand six hundred and forty-three, the house met for one day; when they were prorogued to the 18th of December following, and from thence to February the 17th, one thousand six hundred and forty-four. This day's proceedings contains a petition from lord Dunfany, a prisoner in the king's bench, claiming the privilege of the house, and a recommendation to the lord lieutenant; no note is made of this day's adjournment. On the 6th of April, the house met, and were adjourned to the 10th of April; on which day a message came from the commons, to discharge the impeachment against sir George Radcliffe; which was done, after consulting precedents. On the next day, to which the house adjourned, the 12th of April, an order was framed

CHAP.
II.
1643.

C H A P.
II.

1644.

accordingly, specifying that the impeachment was to be dismissed at the commons' desire.

At this turbulent period, the first regular entry of a writ of error appears, and the mode of presenting it was settled; which form has continued to the present day, and is as follows:

“ Die Sabbati, 13th of April 1644.

“ The lord chancellor acquaints the house,
“ that he has brought precedents for writs
“ of error in parliament, and proceedings
“ thereupon; the lords were satisfied with
“ the precedents: the order then made is as
“ follows:

“ The writ of error to parliament, must
“ be awarded by virtue of the king's war-
“ rant, under his hand, upon the writ; the
“ judge ought to bring in the record, and
“ the king's warrant, and leave a transcript
“ in parliament; and that examined, if the
“ party fails to assign his errors, there ought
“ to

“ to be a *scire facias executionem habere non* CHAP.
 “ *debet*, and issue upon it; and therefore if II.
 “ the plaintiff should assign his errors, there 1644.
 “ must be a *scire facias*, and an issue for
 “ the defendant, *ad audiendum errores*; and
 “ if the parliament should be dissolved be-
 “ fore the cause be determined, the court
 “ from whence the transcript comes, may
 “ award execution.”

The lord chancellor then proposed an order, “ That this writ of error is illegal, “ being without the king’s warrant for “ issuing the writ,” which was agreed to. The chancellor, sir Richard Bolton, was a very able lawyer; but it appears odd that he should move and speak as a peer.

The house was adjourned to the 15th, when the writ of error was admitted, and regularly introduced in the aforesaid cause. A message from the commons was delivered, and in consequence of it, the Scotch Covenant was forbidden to be read or published, under severe penalties.

CHAP.
II.

1644.

The 16th of April, a message was sent to the house of commons about a treatise* respecting the validity of the English laws in Ireland, which made much noise at that time.

On the 18th, this book was ordered to be answered by the lawyers in both houses; and it was done in a tract of the chancellor Bolton's. This tract was deposited in manuscript in the library of the University of Dublin, and afterwards inserted in Harris's *Hibernica*. Mr. Molyneux, after the revolution, is supposed to have taken his principal arguments and cases from this book. This day the house of lords meeting after dinner is thus entered in the Journals, *Hora secunda post meridiem*; when parliament was prorogued till the 6th of May; then to the 4th of June, when four lords were fined 100*l.* each, and four more 100 marks each, for absence; and from thence to September the 5th, to the 3d of

* This book was written by serjeant Mayart, and it is preserved in Harris's *Hibernica*.

October,

October, to the 31st of November, to the 20th of January, to the 3d of February, to the 17th of February, to the 3d of March; when Walgrave Clopton swearing himself not worth five pounds before the lord chancellor, was admitted to prosecute his suit against Mr. Baron Hilton, in *forma pauperis*; after this, parliament was prorogued to the 17th of March one thousand six hundred and forty-four, O. S.; and the house adjourned to the 5th of May one thousand six hundred and forty-five.

CHAP.
II.

1645.

On this last day, the house was prorogued by the marquis of Ormond, the lord lieutenant, in person; and the proclamation was read according to the ancient form, in the session of one thousand six hundred and thirty-four-five, and one thousand six hundred and thirty-nine-forty; from thence to the 20th of May, and from thence to the third of June. The last proclamation was read in the house before a commissioner, the archbishop of Dublin; and parliament was prorogued in the same form,

CHAP.
II.

1646.

form, to the 3d of July, and from thence to the 29th of July, and then to the 28th of August; afterwards to the 21st of October, and then to the 18th of November; from thence to the 24th of January, to the 24th of February, and to the 2d of May, one thousand six hundred and forty-six; all these prorogations were by similar instruments read before the archbishop of Dublin.

On this last day, the house decided that the yeoman usher's place was in the disposal of the black rod; that his duty was to supply the house with wood and coals, and keep it clean and ready for the lords; and from precedents in the lord Chichester's and lord Strafford's days, that the keeper of the robes had no right to be yeoman usher. One hundred and eight protections are here noted in the Journals, from an order of the 19th of August one thousand six hundred and forty-three. Protections were afterwards totally abolished. Lord Rofs, a nobleman celebrated for his wit

wit and pleafantry, having complained of a breach of privilege, and of the arrest of a person whom he had protected; for this acknowledged contempt of the orders of the house, the earl was committed to the caſtle, and obliged to pay the fees: and an order was framed that if theſe complaints were voted frivolous, the complainants ſhould pay the expences of the parties who were ſummoned *.

CHAP.
II.
1646.

During the laſt two years the Journals were more regularly kept; the few lords who attended in thoſe martial days are noted. Poſſibly this regularity was owing to the lord lieutenant, the marquis of Ormond; from this time there were no parliaments held in Ireland, till one thouſand fix hundred and fixty-one; but the three kingdoms were united, in one thouſand fix hundred and fifty-four, and one legiſlature repreſented them during a

* This caſe of lord Roſs and the laſt inſtance of a protection in Ireland was in 1747. In England protections were aboliſhed in 1725.

CHAP. II. considerable part of the two protectorates
of Oliver and Richard Cromwell in one
parliament till near the Restoration.

Four laws only were passed in the first session of one thousand six hundred and thirty-four, of which two related to subsidies and taxes, which were temporary acts; a third, to confirm patents to be passed for grants of lands; and a fourth, to continue parliament, notwithstanding the royal assent had been given to a law.

In the second session of one thousand six hundred and thirty-four, twenty-six laws were passed, some of which related to finance; the others were relative to wills, fraudulent conveyances, reversions, recovery of rents, against descent upon wrongful disseisin, to fines, proclamations upon and errors in them; expedition of demurrers, reformation of jeofailes, to appearance of jurors, to continuance of actions upon the demise of the crown, to costs upon nonsuits, to vexatious suits against magistrates, to the trial of crimes committed in several counties,

ties, to bigamy, for impounding distresses, &c. all which relate to the police and due execution of the law in the country.

CHAP.
II.

1646.

The four following deserve particular notice; the first, a law for the limitation of actions between subject and subject to sixty years, &c. in some cases, and to twenty in others. This act did not comprehend the crown, and the maxim that *nullum tempus occurret regi* obtains still in full force in Ireland; the clauses in this law which except the church, were attempted to be negatived in the lords, but the proposition was lost in a committee by the equality of voices.

Secondly, an act against unnatural crimes. This late adoption of the law of Henry VIII. in England upon this subject, marks the purity of the people in regard to offences, not to be named or thought of without horror and disgust. This act has been supposed to have had a reference to the abominable and beastly transgressions of Dr. Atherton, who was lord Strafford's chaplain,

CHAP. chaplain, and had been appointed at this
 II. time to the see of Waterford.
 1646.

A third law limited interest to ten *per cent.* and a fourth act was for the preservation of timber, and against the cutting down and barking of trees, which subjected offenders to damages at the discretion of a justice of peace, and upon nonpayment thereof to be whipped and committed to prison.

This is the first law which appears upon the Irish code for the preservation of timber; for which purpose many laws have afterwards been passed. A subsequent act, which passed in one thousand seven hundred and ninety-one, after a very singular fate, is added in a note, and comprehends in a narrow compass all the provisions which now exist in Ireland, for the preservation of trees and the encouragement of planting*.

Of

* The following Act, for the preservation of timber, passed in 1791, in the Irish parliament, had a very singular fate; it was carried after three divisions in the house of lords, in which the chancellor was in the minority, and protested against it: it was rejected

Of the three and twenty acts which were CHAP.
passed in the third session of the parliament II.
in 1646.

in the house of commons, because it recited a former act, which contained a penalty; it was afterwards introduced in the commons, and passed both houses, without opposition.

Anno Regni tricesimo primo GEORGH III. Regis.

An ACT for the PRESERVATION of SHRUBS and TREES.

“WHEREAS the several acts passed from time to time in this kingdom for the encouragement of planting, cannot attain the great and desirable ends proposed by them, unless effectual regulations be made for the preservation of trees when planted; be it enacted by the king’s most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, That no person whatsoever holding, or who shall hold any lands in this kingdom by lease, for one or more lives, or for years, or by will or sufferance, shall cut down, grub up, lop or top any tree, wood, or underwood, growing upon the lands so held, under colour of estovers, or of house-bote, plow-bote, hay-bote, cart-bote, or any other bote whatsoever, or under any pretence or cause whatsoever, unless so far

CHAP. in one thousand six hundred and thirty-
II. four-five, one only related to granting
1646. eight

far as such person shall be authorised thereto, by covenant in the lease under which the said lands are or shall be so held, or unless such person, shall have the consent of the owner or owners thereof, under his, her, or their hand and seal for the purpose.

“II. And be it further enacted, That if any person so holding land shall offend herein, such person shall be subject to the penalties enacted against persons who shall wilfully cut down, pluck up, lop, top, or otherwise damage any tree, without the consent of the owner or owners thereof, first had in writing.

“III. And be it further enacted, That no such person in whose possession there shall be found any tree, or any kind of wood, underwood, poles, sticks of wood, shoots, or young trees, so cut or grubbed up, contrary to the provisions of this act, shall be deemed by any justice of the peace to have come fairly and honestly by the same, within the meaning of an act passed in the fifteenth and sixteenth years of his present majesty's reign, entitled, *An act for encouraging the cultivation, and for the better preservation of trees, shrubs, plants, and roots*, or within this present act.

“IV. And be it further enacted, That every justice of the peace who shall wilfully refuse or neglect or act

as

eight subsidies, by the prelates and clergy of Ireland, and is the only act of taxation

CHAP.
II.
1646.

as a justice of the peace, upon any complaint touching the offence aforesaid, or any offence against the said recited act, or in any wise to carry this or any law heretofore made, and at the time in force, for the encouragement of planting, or the preservation of trees, into execution, as a justice of the peace, he shall be subject to the like penalty, to be recovered in the like manner as is enacted respecting any justice of the peace who shall wilfully neglect or refuse to carry into execution any law relative to the linen or hempen manufactures.

“ V. Provided always, and be it further enacted, That nothing in this act contained shall extend or be construed to extend to any person who holds or shall hold land, by virtue of a lease for lives renewable for ever in respect of such land, or to any trees, wood, or underwood growing on the same, nor to affect any person in respect of any trees which have been or shall be planted and registered†, in pursuance of, and under the provisions of any law heretofore made in this kingdom, for the encouragement of planting.”

† By a law of the fifth of George III. in Ireland, the property of trees planted by tenants, and registered at the quarter sessions, in a manner prescribed by the said act, is vested in them, but the landlord has the right of pre-emption upon a just valuation by a jury,—and by the laws

CHAP.
II.

1646. } ation in that session; it was delivered by the great Primate archbishop Usher, under his seal, to the lord deputy, from the convocation, to be presented by him and confirmed by parliament; and it is noted here as a curious remnant of the ancient mode of taxing the clergy.

The most memorable law of this session was one for naturalizing all the Scotch *ante nati*, or those who were born before the accession of king James I.

Another law passed, to prevent unnecessary delays in the execution of the decrees of the courts of justice, which enacts,

laws of the fifteenth and sixteenth of his present majesty, recited in this act, persons convicted before a justice of peace, in a manner therein prescribed, of lopping or of cutting a tree, shall be fined in a sum not exceeding five pounds, and upon non-payment thereof shall be committed for six months to prison. A seventh part of the landed property of Ireland, it has been calculated, is held under the tenure of leases of lives, renewable upon fines for ever.—This tenure was first introduced in Ireland soon after the Revolution by the last duke of Ormond, who was much in debt, that he might raise large sums by fines, and thus borrow money at the expence of posterity; and these tenants are excepted from the provisions of this law.

that

that double the sum or value of the matter CHAP.
II.
in question should be deposited as a pledge, 1646.
before a writ of error, an appeal, or a
superfedeas, be awarded.

By another act, all those of the Irish nobility who lived out of the kingdom were rendered liable to all public charges and taxes which might be assessed by parliament. This law had a reference to raising money by poll-taxes, where the nobility were rated according to their rank; a mode of taxation which prevailed in Ireland till towards the close of the last century; and, probably, if similar taxes were levied, it would prevail even at this period.

The rest of the three and twenty laws related to the police, processes in courts, and the execution of justice.

In the fourth session of one thousand six hundred and thirty-four-five, nineteen laws were passed, which related principally to the execution of justice, but there are three which deserve particular notice.

CHAP.

II.

1645.

The first related to enabling persons who were possessed of any ecclesiastical appropriation, to restore it to the church, without incurring the penalties of the statutes of mortmain; and gives the right of presentation to those who shall augment glebes and livings: if four times the value of what the parson formerly had, the whole presentation is to be vested in the donor; if three times, he shall have three, and the former patron the fourth presentation; if of equal value, there shall be an alternate presentation between the donor and the former patron, but the patron shall have the first nomination.

Leases, charges, and incumbrances upon livings shall be only valid in case the incumbent shall reside fourscore days every year in his parish; upon which clause some suits were instituted, and about the construction of which the courts entertained some doubts in one thousand seven hundred and eighty-nine; but this was not to extend to *new* grants from the king of glebes, which might be leased for twenty-one years,

years, with the consent of the lord lieutenant and council. And lastly, it was provided that all the livings, &c. might be charged with the repairs of their churches.

CHAP.
II.

1646.

The second law enables bishops and other ecclesiastical persons * to make leases for twenty-one years of land, with a reservation of half the improved rent; and leases for forty-one years, of houses in corporate towns; and of ground for fortresses for a longer term, with the consent of the government; and all leases made contrary thereto to be void.

The third law enjoined the erection of houses of correction in every county, for vagabonds, &c. by the justices, under certain penalties and regulations.

In the session of one thousand six hundred and forty, fourteen laws were passed;

* A remarkable difference prevails in the appointment of archbishops and bishops in England and in Ireland; by the Irish statute of the second of Elizabeth, chap. 4. *Congé d'Esclaves* are annulled, and prelates are to be appointed by letters patent from the crown.

CHAP. one of which contained a grant of four en-
II.
tire subsidies by the temporality.
1646.

A second law declares, that whensoever the king or his heirs, or such as claim under him, have been or shall be out of possession for twenty years, and have not taken any profits of lands within the said space, before any information of intrusion is brought, or shall be brought, to recover the same, that in such case the defendants may plead the general issue, and shall not be pressed to plead specially, and that they shall retain possession till the title shall be found for the king; and all writs of *scire facias* shall be drawn up and framed accordingly.

A third law exempted from forfeitures all those who should attempt to rob or murder them, according to a similar law in England of the twenty-fourth year of Henry V.

A fourth law enables pious and well disposed persons to grant lands not exceeding ten acres, for glebes, without licence of mortmain.

These

These were the last acts before the great CHAP.
II.
 Rebellion, and no more laws were enacted 1661.
 in the Irish parliament till after the Resto-
 ration.

SECTION IX.

On the 8th of May one thousand six hundred and sixty-one, the Irish parliament assembled after a long interval; and in the house of lords, the primate was appointed speaker by a commission from the king, as the chancellor was one of the lords justices; but in this session the lords present were not noted, as in the sessions of one thousand six hundred and thirty-four and one thousand six hundred and thirty-five.

Lord Ranelagh moved, That sir Audly Mervyn and sir John Temple, the king's serjeant and solicitor general, might be ordered to attend according to their summons.

The lords justices, the earls of Mount-rath and Orrery, and sir Maurice Eustace the chancellor, were present, and the com-

CHAP. mons were sent for, and ordered to choose
II. a speaker as usual.

1661.

On a previous question, the vote about sir Audly Mervyn was referred to a committee of privileges: after which it was ordered, That lords desiring introduction, should be informed at the door, That, if they, or any of their predecessors, had been outlawed for high treason, that they should forbear coming into the house at their peril; and that lord viscount Massereene should be desired to acquaint them with the sense of the house.

Lord Massereene having reported the execution of this order, it was then referred to the committee of privileges, Whether brothers who were heirs to titles should have admittance under the cloth of state as lords sons? which was allowed. The lords of England admit all descendants of peers, and peers brothers, as their children, in the same manner, upon the liberal idea of informing those who may be future members; and the admission

admission of auditors is so enlarged in the CHAP.
house of lords of Ireland, that this privilege II.
now becomes of little moment. 1661.

The above order respecting outlawed peers has so much influence, and is of such importance at present, as will justify a farther explanation. In consequence of this proceeding, the king issued an order of the privy council, on the 15th of May one thousand six hundred and sixty-one, which was entered in the Journals on the 25th of May; whereby no writ was to be delivered to any outlawed peer, till he had reversed his outlawry in due form of law.

The 29th of October one thousand six hundred and ninety-two, Oliver lord Louth delivered his writ, kneeling, to the chancellor, who acquainted him by order, That, by a certificate from the clerk of the crown, his grandfather was attainted as a rebel in one thousand six hundred and forty-one. His lordship alleging that he was otherwise informed at the crown office; he was ordered
to

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to withdraw and attend on Tuesday, when he said there was a rule of court entered in the crown office for reversing his grandfather's outlawry. He was then ordered to produce the said rule of court next day; but not appearing on the 2d of November, nothing was done. The 24th of August a bill came from the house of commons relative to outlawries, which confirmed some that were defective in form. These outlawed peerages were enumerated after the Revolution, as appears from the following entry in the records of parliament :

“ On the 2d of December one thousand
“ six hundred and ninety-seven, the lord
“ Massereene reported from the Journals,
“ the names of the lords outlawed in one
“ thousand six hundred and forty-one, and
“ other subsequent periods, in the following
“ order :

“ Christopher earl of Fingall.

“ Nicholas viscount Gormanston.

“ Nicholas viscount Netterville.—Since
“ reversed,

“ Arthur

- " Arthur viscount Maginnis.
- " William lord Slane.
- " Matthew lord Trimblestown.
- " Oliver lord Louth.
- " The above lords were outlawed on the 17th
" of November, the 18th of Charles I.
- " James lord Dunboyne, on the 19th of
" November, 18th Charles I.
- " Maurice viscount Fermoy, on the 23d
" October, 19th Charles I.
- " Donough viscount Muskerry, *ibid.*
- " James earl of Castlehaven, on the 22d
" of August, 19th Charles I.

" In the year 1691.

- " Donough earl of Clancarty.
- " William lord Castleconnel.
- " Thomas lord Dunsany*.
- " Rory lord Enniskillin.
- " Pierce Butler viscount Galmoy.
- " Brian viscount Ivagh.
- " Christopher lord Slane.
- " Claude lord Strabane.

* This title was restored in 1784, as the outlawry was held to be reversed by the articles of Limerick.

" Richard

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- “ Richard earl of Tyrconnel *.
- “ Daniel lord Clare.
- “ Theobald lord Brittas.
- “ Matthew lord Trimblestown.
- “ John lord Duleek.
- “ Peter lord Dunboyne.
- “ Jenico viscount Gormanstown.
- “ Ulick lord Galway.
- “ Edward lord Athenry.
- “ Barnaby lord Upper Offory.
- “ All these were outlawed, the 3d of Wil-
- “ liam and Mary.
- “ The lords undernamed have reversed their
- “ outlawries.
- “ Richard lord Mountgarret †.
- “ Pierce viscount Ikerrin.
- “ Alexander earl of Antrim.
- “ Nicholas viscount Kingland.
- “ Almerick lord Kingfale.

* The dukedom of Tyrconnel was not mentioned, as having been created after the abdication; and for the same reason lords Kenmare and Riverston, &c. were never allowed after the Revolution, but considered *ab initio* as defective titles.

† For the remarkable case of this nobleman, see p. 382.

“ Oliver

“ Oliver lord Louth.

“ Richard earl of Tyrone.

“ Thomas lord viscount Merryon.

“ Theobald lord Cahir.

“ Richard earl of Clanricard.

“ Nicholas viscount Netterville.

“ The earl of Westmeath was outlawed
 “ 3d year of William and Mary; he has
 “ now reversed his outlawry, but ought not
 “ to take the title till proof of his brother’s
 “ be produced.

“ Theobald lord Castellogallen died an
 “ outlaw; the present lord reversed his out-
 “ lawry. The earl of Fingal was outlawed
 “ by the name of Luke, instead of his right
 “ name Peter, and since that he has taken
 “ off his outlawry: upon which it was re-
 “ solved, That such lords, whose ancestors or
 “ themselves stand outlawed upon record,
 “ ought not to have privilege of sitting in
 “ this house, or to take upon them any title
 “ of honour.”

The following extraordinary case of lord
 viscount Mountgarret, on the 16th of De-
 cember

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cember one thousand seven hundred and fifteen, is the most curious proceeding of this sort in the Irish parliament, and the best practical comment on the preceding entries and proceedings.

On the 12th of November one thousand seven hundred and fifteen, a complaint was made of a breach of privilege, against Best, Fitzgerald, and Brown, esquires, three justices of peace, who had granted a warrant to commit lord Mountgarret to Maryborough gaol. Upon a reference to the committee of privileges, a question arose, whether it appeared from the Journals that he had been allowed to be a peer? The foregoing proceedings were read, and he was put to prove the reversal of his outlawry; but the record being mislaid, he failed in his proof, though the presumptive evidence was strong in his favour. His lordship had been summoned by the justices to take the oath of abjuration; and on his refusal, as he was a catholic, he was committed to prison. After a long debate, it was ordered, that his title should be expunged from the Journals.

Against

Against this arbitrary and unjust proceeding lord Strabane protested in one instrument, and seventeen other peers, with the primate at their head, in another. Thus the matter rested till the 6th of October one thousand seven hundred and twenty-one, when he presented a petition to the house to revise their proceedings; and though the record of the reversal of his outlawry was not to be found, yet upon an affidavit of this reversal, made by Philip Savage, esq. clerk of the crown in one thousand six hundred and eighty-seven, before judge Boat on the 24th of November one thousand seven hundred and sixteen, the lords ordered, That lord Mountgarret should be restored to the peerage. This was carried by lord Strabane against the chancellor Middleton, who with lord Tullamore protested against that resolution; and thus this noble and ancient family preserved their peerage, by the good fortune of supplying the deficiency and the loss of the record, by the personal evidence of the clerk of the crown office at the revolution, above thirty years after his outlawry had been reversed.

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II.
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II.

1661.

On the 14th of May one thousand six hundred and sixty-one, it was ordered, That whereas divers of the king's council were summoned to attend the house; some of them being members of the house of commons, it might happen that one of them might be chosen speaker; that for the public welfare, during the present parliament, the house would dispense in that case with their attendance. This order had a reference to Sir Audly Mervin the prime serjeant, who was chosen speaker. The same day the house made an order, grounded upon one in one thousand six hundred and forty, That no peer should have more than two proxies. In the administration of lord Strafford, five or more proxies had been vested in one lord; to prevent such an abuse of power in future, this rule was adopted from the lords of England.

On the same day, the committee of privileges were ordered to enquire, whether peers who had no estates in Ireland might be allowed to send proxies? On the 22d of May, all the assistants of the house were summoned to appear, except the speaker of

of the house of commons, sir Audly Mervyn
the prime serjeant.

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The 31st of May a conference took place about a message, and a proposition, which originated in the lords, to continue the excise; at which time the house adjourned by the commons' desire, from eleven to three of the clock the same day, of which adjournments many examples occur in the early Journals.

On the 11th of June one thousand six hundred and sixty-one, some proxies of peers were allowed though they had no estates in Ireland; on which order many proxies were introduced: which introduction in Ireland seems to have been anciently a usual requisite. Of this form there is an example in England, in the case of Theophilus earl of Huntingdon*, who was introduced by proxy in the reign of Charles II.

* Lords Journals of England, vol. xii. p. 532.

CHAP.

II.

1661.

On the 20th of June, at a conference, the house of commons made a proposition for sending commissioners to England to represent the desires of parliament, and prevent private sollicitations about the act of settlement. On the 25th of June twelve proxies were read, allowed, and introduced; the form was, that the lord to whom it was assigned, personated the peer who gave it, was introduced in his room, and was seated according to his place and precedence; and on the 27th, it was referred to the committee of privileges, whether in ancient times lords had the power of speaking and arguing for their proxies, distinct from themselves. The custom of being introduced by proxy ceased at the Revolution, when certain oaths were prescribed upon introduction, which could not be taken by proxy. Four commissioners, one from every bench, were ordered to be sent to England; and at five o'clock on the same day, when the house met again, the earl of Kildare, viscount Montgomery, the bishop of Elphin, and lord Kingston, were chosen commissioners by ballot.

On

On the 5th of July it was ordered, CHAP.
 That the chancellor should grant a writ of II.
 error on lord Cloncarty's outlawry, and two 1661.
 lords waited on him for that purpose *. This
 favour was a compliment to the earl as the
 duke of Ormond's brother-in-law. The lord
 high treasurer had leave to be absent for six
 weeks, leaving a proxy. Till this time, and a
 short period afterwards, he was an efficient
 officer, as in England; afterwards this office
 was made hereditary in the earl of Corke,
 and continued to his heirs, the duke of
 Devonshire's family. The reasons of this
 change shall be mentioned hereafter.

On the eleventh of July three lords from
 every bench † were named committees, for
 preparing instructions for the commissioners
 in England; and on the 18th, the judges and
 masters in chancery, and also some bishops,
 were recommended to the king through the
 commissioners, for an increase of salaries
 out of the forfeited lands.

* Sir Maurice Eustace was then one of the lords
 justices.

† That is, of each order or class of nobility, barons,
 bishops, viscounts, &c.

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II.

}

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On the 23d of July, the lords and commons agreed in a joint request, for permission to export wool to England.

On the 26th of July the instructions from the lords to their commissioners were read. It had been previously arranged with the house of commons, that they were to be severally agreed to. On the 27th, a bill was agreed to be drawn by a joint committee for raising 12,000*l.* for the commissioners. On the 30th of July, on a petition from the marquis of Antrim, the lords justices were requested to have him brought to a speedy trial. On the 31st of July one thousand six hundred and sixty-one, the customs and excise were continued by a joint declaration; and also a credit was given jointly for raising money for the use of the commissioners, to whom Mr. John Davis had been named secretary, on the recommendation and engagement of the earl of Kildare. Proxies were ordered to be vacated upon the nonpayment of introduction fees; and two requests were made to the lords

lords justices, to transmit a bill for repealing those acts which prohibited going to England without licence of government under severe penalties; and another bill, that such tradesmen as should come over from England, might have the same freedom of corporations as native freemen; but this excellent proposition was never legalized. It was ordered, That application should be made to the lords justices for a *concordatum* warrant from the treasury of 100 *l.* for the yeoman usher, to supply the house with necessaries. The commons, by a message, presented a declaration for levying money by poll; declaring they had left the assessment of the lords spiritual and temporal, and the clergy, to themselves; and two bishops and six lords were accordingly named commissioners to assess the nobility and clergy: but this way of raising money was declared to be no precedent in future. On this day the lords justices prorogued parliament, by an instrument read in the house by the clerk of the crown, till the sixth of September one thousand six hundred and sixty-one.

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1661.

In this parliament, which was the first that met in Chichester-house near Dublin, the lords sat forty-six days. With regard to the places where the Irish parliament met, the parliaments * of Elizabeth, James I. and Charles I. assembled in rooms prepared for that purpose in the castle of Dublin. In one thousand six hundred and forty-one, at the Tholsel; from the Restoration to the year one thousand seven hundred and twenty-five, they sat in Chichester-house; which was on the site of the present house of parliament: during the building of which, from one thousand seven hundred and twenty-five, to one thousand seven hundred and thirty-one, they sat in two great rooms at the Blue-coat or Foundling-hospital. The house, where the parliament have sat ever since, is one of

* By an act of the third of Edward IV. chapter the first, for repairing the castle of Dublin, and applying certain fees of the court of chancery, &c. for that purpose, it appears, that parliament and the courts of law had been held there from the earliest periods; Dublin was bounded, till 1661, on one side, by the walls of the castle.

the

the most magnificent and most commodious buildings in Europe. One of the members, sir Edward Piers, was the architect; whose executrix, in one thousand seven hundred and thirty-five, returned an account for the whole expence of 29,500*l*.^{*}; but the additional wings since the year one thousand seven hundred and eighty-three have been estimated at between 50,000*l*. and 60,000*l*.

CHAP.
II.
1661.

In these early parliaments the house was adjourned to nine o'clock of the next sitting day, when they usually met at that hour †. Frequently the house sat twice, and ad-

^{*} Journals of the Commons of Ireland, vol. vi. p. 587.

† The similarity between these early hours of meeting in the English and Irish parliament, and those which now obtain in the National Assembly, must strike all whose curiosity may have led them to take a view of the late extraordinary Revolution in France:—the National Assembly generally meet before ten o'clock; and adjourn at three for dinner:—upon a press of business, they re-assemble from six to nine, when committee business is generally transacted; and this course prevailed during seven months, while the Author attended the National Assembly.

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journed for dinner from the fore to the afternoon. Through the whole of this session the primate presided, having been appointed speaker by commission, in the room of sir Maurice Eustace, the chancellor, who was in the government. Though the lords present are not noted, as in the periods antecedent to the great Rebellion; yet it appears evidently that the bishops sat as usual * in this parliament, though a session had passed in England before they were re-established in their seats after the Restoration. And the lords of England had a chaplain, doctor Hodges, who read prayers for one session, in the room of the junior bishop present, according to the rule now established.

The next session the house of lords sat only three days. On the 10th of September one thousand six hundred and sixty-one the

* The bishops never lost their seats; nor was the house of lords ever declared to be useless in Ireland, as was the case in England during the Rebellion; but in the parliament in one thousand six hundred and fifty-four, which represented the three kingdoms, thirty commoners *only* were deputed from Ireland.

house

house of lords requested the lords justices not to prorogue parliament; but the answer was, "That it was convenient for his majesty's service;" and the prorogation to the 10th of October took place accordingly: on which day they were prorogued to the 6th of November, and from thence to the 5th of December.

CHAP.
II.

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SECTION X.

ON the 5th of December the parliament met; when a petition was presented from the earl of Shrewsbury, as earl of Waterford, against an assessment of 18*l.* as he had no lands in Ireland: and the speaker of the house was ordered to write a letter in the name of the house to the king, with their thankful acknowledgments for the appointment of the duke of Ormond to be lord lieutenant, and a congratulatory letter to his grace.

This first letter, which was read next day, is most admirable in style and composition; posterity sees one address at least where truth is predominant, and where praise does not exceed

CHAP. exceed its due bounds, when applied to that
 II. } able, virtuous, and illustrious nobleman.

1661.

This compliment appears to have been peculiar to the Ormond family; as the precedent was followed, and similar proceedings took place in one thousand seven hundred and three and one thousand seven hundred and eleven, on the designations of his grandson, the last duke of Ormond, to the lieutenancy of Ireland.

On the 9th of December, doctor Westly, an assistant of the house, was ordered to carry the letters to his majesty and the duke of Ormond; and twenty pounds was allowed him for his trouble. On the 11th, the lords justices having sent word that they intended to prorogue the parliament, the next day the house adjourned accordingly to the 21st of January one thousand six hundred and sixty-one. In this session the lords sat only six days.

The parliament met the 21st of January, when the duke of Ormond's answer addressed to the speaker, was read, and entered in the Journals.

On Wednesday the 22d, doctor Westly CHAP.
II.
was disqualified for being an assistant for 1662.
neglect of his duty; and the house was prorogued by the lords justices to the 4th of March one thousand six hundred and sixty-one. The next session the lords sat but six days. On the 24th of March O. S. one thousand six hundred and sixty-one, they were prorogued to the 17th of April one thousand six hundred and sixty-two; all causes depending were adjourned over to the next session, which is now a motion of course. On the 27th of July, the first regular appeal is thus entered in the Journal: "The viscount Ranelagh's petition by way of appeal from the chancery was read, and referred to the committee of grievances." This reference plainly shews that appeals from thence were novel, and that a regular mode of presentation had not been adopted at that time. It has been mentioned, that appeals from courts of equity were first introduced into the lords of England about forty years before that time, though

CHAP. though writs of error are of much longer
II. standing.
1662.

SECTION XI.

IN the parliament which met the 17th of April one thousand six hundred and sixty-two, and which sat with long adjournments till the prorogation, the 15th of April one thousand six hundred and sixty-three, the lords sat one hundred and twenty-one days.

The principal business of this parliament was the quieting and restoring of possessions, and the arrangement of the Act of Settlement. It would be a waste of time, to record transactions that related merely to a temporary measure; which, though the act itself, and the Act of Explanation, are the great landmarks, the *Magna Charta* of the property of Ireland, from whence almost all the landlords in the kingdom derive their property, yet the proceedings upon them scarcely contain any material

material precedent, of which the knowledge can be useful to posterity. The various clauses in this voluminous law, which is said to have been drawn up by sir Heneage Finch, afterwards the lord chancellor Nottingham, and which fill a hundred and ten pages of the statute book, may be considered as so many private bills, which passed with similar formality to that which is usual upon separate proceedings of that nature, and also with similar fees and expences, which are paid upon private bills at this day.

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1662.

Few transactions appear to be worthy of particular notice in this session; in proportion as states become tranquil and peaceable, events of great notoriety are infrequent, and turbulent periods always present the most memorable transactions. The history of peaceable times resembles the journal of a ship in a calm, and the best and the most desirable periods to live in, are those which are often the most unimportant to the annalist: but many of our parlia-

CHAP. II.
1662. parliamentary customs in both kingdoms, which are now established by length of time, were the excrescences and productions of the period of the great Rebellion (of which the institution of the post office, and the privilege of franking in England afford ample testimonies); antecedent to this session, however, there were great divisions and warm disputes among the English ministers about the convocation of parliament in Ireland; and Mr. Carte, in his second volume of the Life of the Duke of Ormond, has preserved a curious debate in the council of England, whether the settlement of Ireland should be transacted by the English or by the Irish parliament: the solicitor general, sir Heneage Finch, was for the latter, upon a doctrine and a proposition which had its due influence, that the laws of the English parliament would only be binding by sufferance, and valid by adoption; and farther, that those laws might be repealed by the Irish parliament; an opinion which then seems to have governed the council of England. The assertion

tion and declaration of the Irish, however, and the final renunciation of the English parliament in one thousand seven hundred and eighty-one, has established upon an eternal irrevocable foundation, the sole right of their own parliament to legislate for Ireland.

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II.
1662.

On the 17th of April one thousand six hundred and sixty-two, the bishop of Elphin made a report from the commissioners in England. He was the only one of that body who had returned; and he received the thanks of the house. It was ordered the same day, That all suits depending in the house from the last sessions should be continued. On the 22d of May it was also ordered, That no private suits should interfere or be heard, till the act of settlement was concluded, and the whole of this session of parliament was principally occupied in that business.

The 30th of April, twenty-two lords were noted to be present by person or proxy; the duke of Ormond, though lord lieu-

CHAP. lieutenant, is noted as present by proxy.
 II. He was then named, but had not been
 1662. formally invested with the government.

On the 14th of June it was ordered, That the speaker of the lords should have the same fees as the lords' speaker in England.

On the 28th of June there was a conference for raising 30,000*l.* for the duke of Ormond; the arrangement of which, in the lords and commons, caused much embarrassment; and on the 11th of September all the bishops protested against being included in a joint vote, to make them liable to that contribution. On the 15th the lords in a free conference delivered their sense, That the inferior clergy should not be taxed by this assessment*.

On Wednesday the 23d of July one thousand seven hundred and sixty-two, the

* This exception in favour of the inferior clergy, was on account of their being liable to be taxed by the convocation, whose powers existed at this period.

first instance occurs of an adjournment during pleasure, in this form: CHAP.
II.

1662.

“The house was adjourned during pleasure;” and when resumed, it was ordered, “That eight lords (who were named) be a committee, to withdraw immediately, to consider of expedients to propose to this house, for raising 30,000*l.* for the duke of Ormond.”

The primate, who was then speaker, adjourned the house till the next morning at nine of the clock. In these early times and long afterwards, the house met nearly at that hour, and sat till towards twelve, when they adjourned for dinner, and if business required it, as it has been frequently remarked, they met in the afternoon.

On the 1st of September one thousand six hundred and sixty-two, the chancellor was ordered to issue a writ to the marquis of Antrim, if he should produce a certifi-

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D d

cate,

CHAP. cate, that he was neither indicted nor out-
 II. lawed for high treason.
 1662.

In the antecedent Journals, there are no protests, though there are instances of declarations of the whole house, under the name of protestations, and of the bishops as a body. The first which may formally be called by that name, is in this day's Journal, and it is transcribed here for its originality. (Lord Clarendon relates, That the first instances of protests, with reasons in England, were in one thousand six hundred and forty-one, before which time they usually only set down their names as dissentient to a vote.)

“Forasmuch as this first of September
 “one thousand six hundred and sixty-two,
 “there was a resolution of the house of
 “peers, That the distribution of the assess-
 “ment of the 30,000^l. for the duke of
 “Ormond is equal, I being not satisfied
 “that the counties of Down and Antrim
 “do

“ do bear an equal proportion to the other
 “ counties of that province, and of the king-
 “ dom in general, but that they are over-
 “ charged, do, with all respect to that vote,
 “ enter my protestation against it, for the
 “ prevention of the consequences of such a
 “ precedent. MASSAREENE.”

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 II.

1662.

That to protest was a very unusual proceeding at that time, is evident from the following annexed memorandum:

“ With all respect for the vote of the
 “ house of peers, I do protest as above.

“ MOUNT ALEXANDER.”

On the 25th of September, sir George Lane the clerk, had the thanks of the house, for his conduct in England, about the Act of Settlement; and the primate gave him the blessing of the church, from the bishops' bench.

On the 20th of December, the chief justice brought in a writ of error: the following entry is scarcely different from the

D d 2

present

C H A P.

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1662.

present form: "That he was commanded
 " to bring in the record of a judgment be-
 " tween Parke, plaintiff, and Kean O'Hara,
 " *et uxor*, defendants; and that accord-
 " ing to custom, the original ought to be
 " returned to the said court, having first
 " compared the transcript therewith, on
 " the next sitting day."

The same day sir Heneage Finch*, the English solicitor general, had the thanks of the house, for carrying on the great work of the kingdom; for so the Act of Settlement was emphatically called.

On the 9th of February, the following important order was made, against hearing causes of original jurisdiction, of which many antecedent instances occur; That sir William Aston, and Mr. Booth, first and second justices of the common pleas, do

* Afterwards earl of Nottingham, and lord chancellor. The system introduced by this great man, in the court of Chancery, has gained him the appellation of 'The Father of Equity.'

present

present a draft of an order, next day of meeting, “that no cause or matter between
 “party and party, which may be heard in
 “any of his majesty’s ordinary courts of
 “law and equity, shall be admitted, or
 “receive a hearing in this house, except in
 “case of an appeal, or a writ of error.”

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II.

1662.

On the 2d of April, a report was made of the distribution of the expence of the commissioners in England; a precedent, which was cited upon the affair of the regency in one thousand seven hundred and eighty-nine, though the duke of Leinster and lord Charlemont, Mr. Connolly, Mr. O’Neil, Mr. Ponsonby, and Mr. Stewart, the commissioners, very honourably executed the commission on the regency at their own expence. And a similar report is transcribed from the Commons Journals*, as a curious memorandum of that important delegation, and of the expences attendant on the Act of Settlement.

* Irish Commons Journals, vol. ii. p. 536.

The Names of the Persons to whom the 23,500l. and the Dividend thereof by Order was to be paid.

“ To the Commissioners of the House of Commons; viz.

	£.	s.
“ Sir Audley Mervyn the “ speaker, as a commis- “ sioner, - -	1000	0
“ Sir Henry Tichborne, -	400	0
“ Sir Arthur Forbes, -	400	0
“ Colonel Trevor, now lord “ Dunganon, - -	475	0
“ Sir Theophilus Jones, -	400	0
“ Sir William Petty, -	400	0
“ Sir John Skeffinton, -	400	0
“ William Temple, esq. -	500	0
“ Sir Peter Courthorp, -	400	0
“ Sir James Cuff, - -	400	0
“ Sir Francis Butler, -	400	0
“ Richard Jones, esq. -	475	0
“ Sir Martin Noell, - -	400	0
“ Mr. Richard Stephens, clerk to “ the said commissioners,	112	10
“ For interest and exchange,	825	0
	6,987 10	
	An	

*An Abstract of the foregoing Accompt.*CHAP.
II.

	£.	s.	1662.
" To the four lords com-			
" missioners, -	4,550	0	
" To particular persons by			
" order, &c. -	11,962	10	
" To the commissioners of			
" the house of commons,	6,987	10	
Total expence	23,500	0	

On the 15th of April one thousand six hundred and sixty-three, the parliament was prorogued by a commission; which does not appear as usual upon the Journals.

SECTION XII.

IN the parliament which met on the 26th of October one thousand six hundred and sixty-five, after a parliamentary vacation of near two years, the lords sat seventy-one days, till the fatal dissolution the 7th of August one thousand six hundred and sixty-six.

CHAP.

II.

1666.

This event was emphatically fatal, because it did not legally assemble from this latter period in Ireland, till one thousand six hundred and ninety-two. The trifling dispute which caused this national misfortune shall be more amply considered in a separate chapter. This transaction is a beacon, to warn posterity of such a shipwreck, and of the dangers of disunion between two bodies who should be as close in amity as they are in situation, and whose proceedings may aid, but can scarcely ever counteract, the common welfare of the country. As the last session was principally occupied about the Act of Settlement, so this was engaged in an act of explanation, or of the final arrangement of the landed property of Ireland, according to the original design of that important law.

The Journal begins on the 9th of November; the parliament had met on the 26th of October, but the Journals of that day, and perhaps some intervening days, are lost.

On

On the 23d of November, sir George CHAP.
Lane the clerk, was ordered to write to ^{II.}
the clerk of the lords of England, for a _{1666.}
state of their fees; and it was ordered, according to the usage of the English house, That peers claiming by descent should pay no fees*.

On the 4th of December a petition was read from lord Conway and the bishop of Down, against Moses Hill esq. a member of parliament, and ancestor of lord Hillsborough, who had entered upon their possessions. This produced many conferences, the idle ceremonies of which, created that flame between the two houses, which ended in a dissolution, and a five and twenty years intermission of the assembling of the Irish parliament.

* The fees in Ireland were afterwards adjusted according to the English table; and this regulation subsisted till the reign of queen Anne, when in one thousand seven hundred and ten the fees were ordered to be one-fourth less than in England.

On

CHAP.

II.

1666.

On the 23d of December, after passing several bills, the lord lieutenant made an able and pithy speech; twelve lords were named a committee to thank him, and to request that he would order it to be printed: this speech is not entered in the Journals, nor are any to be traced there in these early periods. This was the first speech of a lord lieutenant that was ordered to be printed, though it does not appear in the records of parliament. Messages from the chief governors were always inserted in the Journals; but the first speech made and entered in the present form in Ireland, was that of lord Capel, on the 29th of August one thousand six hundred and ninety-five.

This viceroy died in the first session of that parliament, and the privy council, according to the prescriptions of the thirty-third of Henry VIII. chose the chancellor, sir Charles Porter, deputy in his room, who was confirmed by the king. This act, upon the death of the duke of Rutland, in one thousand

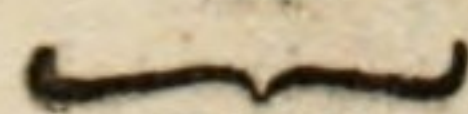
thousand seven hundred and eighty-seven, CHAP.
 underwent several modifications; but the II.
 facility of communication now between these 1666.
 countries, seems to make such a provision
 for an executive government almost unne-
 cessary; as the mail goes and returns to
 Ireland, upon an average, in one hundred
 and twenty hours, sixty to go and sixty to
 return, which is five days interval; in which
 time the summons or notice for the privy
 council's meeting would almost elapse; so
 that the king's appointment would proba-
 bly anticipate the convention and election
 of the privy council.

On the 16th of December, some present-
 ments in the King's-bench for nuisances, in
 not amending the streets of Dublin, and the
 suburbs, and for laying dung and filth in
 the streets, against lord Roscommon, and
 two other peers, were complained of by pe-
 tition, upon which they were adjudged to
 be erroneous, as being in the time of pri-
 vilege. This peer was the celebrated poet
 so praised by Pope:

“ Such

CHAP.

II.



1666.

“ Such was Roscommon, not more learn’d than good,
 “ Of manners generous, as his noble blood;
 “ To whom, the wits of Greece and Rome were
 “ known,
 “ And every author’s merit—but his own.”

This proceeding, which marks so strongly the slovenliness of the times, caused long and violent debates; lord Santry the chief justice, and the chancellor, who was not a peer, spoke upon it; an idea was entertained of censuring the former, and he was ordered to bring the presentments by *certiorari* into the house.

On the 22d of January, after a short recess, these matters were again discussed, though the proceedings, and all processes thereupon, had been quashed; and it was made an order of the house, that a presentment for a nuisance could not be brought against a peer, while parliament was sitting. This rule, however, does not appear upon the roll of standing orders, as it was probably deemed afterwards to relate to a mere temporary transaction.

On

On the 14th of July one thousand six hundred and sixty-six, the public acts of the kingdom were first ordered to be printed by authority of parliament. CHAP.
II.
1666.

On the 3d of August a representation was made to the lord lieutenant, the duke of Ormond, from the lords, about their disputes with the house of commons, at a conference; his grace decided in favour of the former, and said, that the ceremonial was, That the lords should sit covered, and the commons stand uncovered, upon these occasions. This opinion he gave on the practice in England; from lord Strafford's decision in one thousand six hundred and thirty-four, who had long been an English commoner; and from his own experience as a member of parliament in both kingdoms. His grace advised the commons, many of whom were in the audience room when this representation was made, to submit, and recommended the renewal of a fair understanding between the two houses; and he offered to give them his opinion in writing, and to mediate between them.

But

CHAP.

II.

1665.

But these representations having produced no effect, on the 7th of August the lord lieutenant entered the house with the usual ceremonies, and according to the present forms and etiquettes; and having given the royal assent to several bills, the chancellor made a speech, which does not appear upon the Journals in form, in which he gave many reasons for putting an end to the parliament; and he thereupon declared in the house by the lord lieutenant's desire, That the parliament was dissolved.

In the first session of parliament after the Restoration, the primate, archbishop Bramhal, was the speaker of the house of lords; but in all the other parliaments of Charles I. and Charles II. and from the commencement of the Journals in both kingdoms, the offices of speaker of the house of lords and of the chancellor were generally united.

This combination, of two such important and laborious employments, had probably,

bably, in early times, some peculiar reason, which now no longer exists, and which is difficult to trace in the recesses of a remote antiquity.

CHAP.
II.
1666.

It has been conjectured, that the chancellor generally sat as the king's steward in his great court baron, or in the assembly of the principal tenants of the crown, of which the upper house was composed, before it was divided into two chambers of parliament; as the steward of the lord of the manor sat in the manorial court, merely for the purpose of assembling the members, without having a voice, or taking a part in their deliberations; which power this great officer was not invested with, unless he was created a peer; and this conjecture seems to be countenanced by a great legal antiquarian of the first authority, and one of the brightest luminaries of our law*.

After

* The chancellor, who is in the nature of a steward in the court baron of the king, lays the mace on the table when it is a house, to shew that the king's steward,

CHAP.
II.

1666.

After the Restoration, no grants from the convocation appear upon the Irish statute book: the last grant from the clergy was in one thousand six hundred and thirty-four, the tenth of Charles I. chap. 22. It is difficult to ascertain the precise period at which the clergy ceased to be taxed by the convocation, and were considered as represented, and allowed to vote for members of parliament. But, till the year one thousand six hundred and sixty-two, the convocation might have been held for the purpose of taxation in a national synod (not in provincial synods, as was the case in England, under the archbishops in each province), by the archbishop of Armagh, whence was derived

Steward, who is appointed in his absence to hold the court, is there. But the chancellor has no voice unless he is a peer; for he anciently was none of the peers, unless he held *per baroniam*; nor is he now, unless created by patent or summons; for, in the courts baron, or county courts, the steward was not judge, but the peers; nor was the speaker in the house of lords judge, but the barons only. Treatise on the Court of Exchequer, by the Lord Chief Baron Gilbert, page 42.

his title of primate or president of all Ire- CHAP.
land; and in a grant of eight subsidies, II.
by the fifteenth of Charles II. chap. 7. 1666.
sect. 18. the clergy are expressly ex-
cepted, as they were then liable to be taxed
by the convocation.

Probably Ireland soon followed the example of England; where, after the Restoration, the method of taxing the clergy by parliament commenced; of the origin of this change, various opinions have been entertained, and many conjectures have prevailed. History has not yet ascertained this great constitutional question, and the reason of this change is still problematical; but the chief baron Gilbert seems to have given the best reason, and to have assigned the most probable grounds of this change in parliamentary representation.

“ The clergy in England (says he)
“ continued to be taxed till the 13th of
“ Charles II. chap. 4. when the clergy
VOL. I. E e “ gave

CHAP. " gave their last subsidy ; at which time it
 11. " appeared more advantageous to continue
 1666. " taxing them by way of a land-tax, or a
 " poll-bill, as was the case in the time of
 " the Rump parliament. The clergy found
 " this easier than the tenths, which they
 " used to pay in their former way of taxing;
 " and from henceforward it passed, that
 " they should have a vote for members, as
 " in the days of the Rump parliament; and
 " they were taxed as the laity were."—
 Treatise on the Exchequer, page 56.

In the course of this work, all the laws which have passed till this period, have been enumerated, and such of them as were most material, and of the greatest import, have been abridged, or generally described*.

A very

* The following is a table of all the sessions and laws, according to the statute book, from the commencement of the Irish parliament, to 1666.

			Sessions.	Laws.
In the reign of	Edward II.	- -	I	5
	Henry VI.	- -	11	36
	Edward IV.	- -	9	23
				In

A very material difference is observable between the Irish and the English code in early periods; many obsolete laws and statutes, which have fallen into disuse, are to be found in the latter, whereas very few of that description are to be traced in the Irish statute book.

CHAP.
II.

1666.

One law, however, of this description deserves particular notice; namely, an act of the twenty-eighth of Elizabeth, chap. 2. against witchcraft; which is still unrepealed.

	Sessions.	Laws.
In the reign of Henry VII. - -	4	26
Henry VIII. - -	8	55
Philip and Mary, -	1	15
Elizabeth, - -	10	49
James I. - -	2	10
Charles I. - -	12	86
Charles II. - -	4	54

From 1666 till 1692, there was no regular meeting of the Irish parliament: but four sessions were held in the reign of king William; and from the reign of queen Anne, in 1703, it assembled biennially, till 1783; since which time they have met annually, as in England.

CHAP.
II.

1666.

This law subjects those who shall be found guilty of imaginary crimes to capital punishment, and enters into a description of the felony in question with minute accuracy; provides for the trial of peers who may be accused of witchcraft, and also for the means of detecting offenders.

That such an act should still appear upon the Irish code is the more extraordinary, as the law of James I. was repealed in England in the ninth year of the late king*, in consequence of an old woman undergoing the water ordeal; or in plainer terms, being drowned at Tring in Hertfordshire; a transaction which was of great notoriety at that period.

A late question in the English house of commons†, during which several obsolete laws were cited, which were not supposed, even by intelligent men, to have

* 9th of G. 2. c. 15. in 1736.

† Mr. Fox's motion about the Unitarians, May 10, 1792.

existed

existed in the statute book, has excited some speculations in the public mind upon a very important subject ; namely, the necessity of a revision of the ancient laws, which it might be expedient to repeal, or to reduce different laws which relate to the same subject into one consistent statute.

CHAP.
II.
1666.

In the year one thousand six hundred and twenty, a committee was appointed for this purpose in the house of commons of England ; and this scheme is said to have been renewed in the latter part of his life, by the late sir William Young.

The judges in Ireland make an annual report to the house of lords, of such temporary laws as are near expiring, and which ought to be continued ; and a law is passed every session, grounded upon their opinion, for this purpose.

If ever such a scheme should be in contemplation, the extension of the powers of the judges, to inquire also into the expediency

CHAP. diency of continuing certain obsolete laws,
 II. might be the most eligible method of carry-
 1666. ing a measure, which perhaps is, or shortly
 may be necessary, into execution.

This particular is noted here, (though the author would wish to avoid expatiating upon a subject of such depth and magnitude,) as this mode of proceeding seems to be analogous to a proposition made some years ago by a learned antiquarian*, who appears to have entered into this interesting subject with the greatest ability, and the most rare and profound erudition.

It is time, however, to put a period to a digression, which might lead to a vast field of investigation, and to matters of the first consequence, which demand the exertion of the greatest abilities and most enlightened understandings; it will be necessary now to

* Observations on the more ancient statutes, from *Magna Charta* to the twenty-first year of James I. page 557. by the Honourable Daines Barrington.

pursue

purſue the plan which was originally adopted, and to conclude this chapter with a ſhort ſummary of the laws which were paſſed after the Reſtoration. CHAP.
II.
1666.

Befides the important laws, which granted what is now called the hereditary revenue, there were very few of the thirty-one acts which paſſed in the ſeſſions of one thouſand fix hundred and fixty-one and one thouſand fix hundred and fixty-two-three, and of the twenty-three laws which paſſed in the ſeſſions of one thouſand fix hundred and fixty-five-fix, which have had an influence in ſucceeding periods.

A law, which rendered inn-keepers accountable for horſes committed to their charge, has an extraordinary appearance, as it ſeems odd that ſuch a provision was neceſſary; and an act for increaſing the fees of the great ſeal, by a grant of ten ſhillings for every patent for lands that ſhould be granted, ſhews how inferior the office of chancellor was, in point of emolument,

CHAP. ment, to what it is at present, when it has
 II. been supposed to exceed the sum of ten
 1666. thousand pounds per annum.

In the laws which grant the hereditary perpetual revenue, which is now nearly one half, but which till the Revolution constituted the whole of the Irish revenues, there are clauses which restrain the alienation of any part of it in pensions, and all clauses of *non obstante* are declared void; so that it is not true that pensions are granted out of this fund, but they are granted from the revenues at large, or what is called the aggregate fund, according to the opinion of some able lawyers, as there are no appropriating clauses in the statutes, as in England: and the argument about pensions on the side of the crown lawyers may be reduced to this syllogism: “ the
 “ whole revenues of the crown, when paid
 “ into the treasury, form an aggregate fund,
 “ of which the crown is the trustee for
 “ the public benefit; but rewarding ser-
 “ vices, and granting pensions, is for the
 “ public

“ public advantage ; and therefore grants
 “ of pensions are legal.”

CHAP.
 II.

1666.

The clauses against alienation, they assert, were intended merely to prevent any part of them from being alienated before they were paid into the treasury, but not afterwards.

One of those acts which grants the tonnage and poundage enjoins, that the revenue arising therefrom should be applied to guarding the seas ; a very extraordinary clause, and which will appear the more remarkable, when compared with an intended application in one thousand seven hundred and eighty-five, of the surplus of the hereditary revenue, above six hundred and sixty thousand pounds, for naval arrangements and establishments in England, and a proposition for an application of that revenue, a great part of which had been already appropriated.

The most remarkable of the statutes which do not relate to revenue, is one for
 I a pro-

CHAP. a provision for ministers in cities and cor-
 II.
 1666. porate towns, by cesses upon the houses
 and inhabitants; and another, to enable
 the justices at the quarter sessions, to rate
 and tax every parish in their districts for the
 relief of poor prisoners; and a third, for pre-
 venting ecclesiastical persons from holding
 church preferment at one and the same
 time in England and in Ireland; with a
 clause in favour of the bishop of Offory, to
 hold the deanery of Bangor, which marks
 the impoverished state of that see at this
 period.

NATURALIZATION.

A very important law passed in one
 thousand six hundred and sixty-five-six,
 which deserves most particular notice;
 namely, an act for naturalizing all foreign
 protestants; this being only for seven years,
 it was made perpetual after the Revolution,
 and explained and extended by several sub-
 sequent laws.

Natura-

Naturalization has been carried farther by the Irish, than by the British parliament. In one thousand seven hundred and forty-three, a bill passed the house of lords, which was presented by lord Clanbraffil, for naturalizing Jews. This was negatived in the house of commons; in the subsequent session of one thousand seven hundred and forty-five, however, a similar bill was brought into the house of commons by Mr. Thomas Fortescue, and passed that house; but it was rejected in the lords, about six or seven years before the famous Jew bill was in contemplation in England.

CHAP.

II.

1666.

But, in the year one thousand seven hundred and eighty, a general Act of Naturalization* was introduced in the house of commons, by Mr. James Fortescue, the son of the former gentleman, by which all persons who shall take a short oath of allegiance upon *the Holy Evangelists*, are intitled to the privileges of natural-born subjects.

* There are only two exceptions in this law, viz. sitting in, and voting for members of parliament.

In

CHAP.

II.

1666.

In England, it is said, that very few laws have heretofore been proposed for the naturalization of large bodies, or of persons under a general description; of these the most remarkable was, an act passed in one thousand six hundred and eighty-nine, soon after the Revolution, in consequence of the Revocation of the edict of Nantz, for naturalizing foreign protestants, which was afterwards repealed early in the reign of queen Anne. From a passage in the Journals * it appears, that sir Isaac Newton, then representative for Cambridge, was chairman of the committee; and probably was the parent or framer of this law: a circumstance which cannot be too particularly noted, as it is perhaps a single, solitary, parliamentary anecdote of that great ornament of human nature.

* Journals of the House of Commons of England, vol. x. p. 93.

END OF THE FIRST VOLUME.



Morres, Hervey Redmond, 1745-1797

The History Of The Principal Transactions Of The Irish Parliament, From
The Year 1634 To 1666 Containing Proceedings of the Lords and Commons,
during the Administration of the Earl of Strafford, and of the First Duke
of Ormond ; With A Narrative of His Grace's Life, collected from the
Papers of Sir Robert Southwell, Knt., Secretary of State in Ireland, and
Bd.: 1

London (1792)

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